S. HRG. 100-1043

THE EEOC'S PERFORMANCE IN ENFORCING THE AGE DISCRIMINATION IN EMPLOYMENT ACT

HEARING

BEFORE THE

SPECIAL COMMITTEE ON AGING
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

WASHINGTON, DC

JUNE 23, 24, 1988

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THE EEOC'S PERFORMANCE IN ENFORCING THE AGE DISCRIMINATION IN EMPLOYMENT ACT

THURSDAY, JUNE 23, 1988

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, DC.

The committee met, pursuant to notice, at 9:34 a.m., in room 628, Dirksen Senate Office Building, Hon. John Melcher (chairman of the committee) presiding.

Present: Senators Melcher, Shelby, Heinz, Pressler, Grassley, Wilson, Chafee, Durenberger, and Simpson.

Staff present: Max Richtman, staff director; Jim Michie, chief investigator; Ron Kader, investigator; Jennifer McCarthy, professional staff; Lloyd Duxbury, professional staff; Larry Atkins, minority staff director; Laura Erbs, minority professional staff; and Kelli Pronovost, hearing clerk.

OPENING STATEMENT BY SENATOR JOHN MELCHER

The CHAIRMAN. The committee will come to order.

I am going to read an opening statement that is a little bit longer than I would usually make, but I believe it is important this morning to read this statement into the record.

This is the first of 2 days of hearings on the performance of the Equal Employment Opportunity Commission in enforcing the Age Discrimination in Employment Act. These hearings are the result of an investigation that began about 10 months ago when the committee began receiving alarming reports about mismanagement within the agency.

We held the first hearing on this subject last year in September, and what we learned was that the agency was skeptical of any reports of management problems within its walls. Let me just summarize on that one point.

We are told that the Commission has a great deal of trouble with its computers, extending back for a number of years. Second, we are told now that the Commission hasn't had sufficient money. Third, the Chairman of the Commission believes that the Aging Committee interfered with the Commission's mission by asking for too much information.

I found that rather unusual. Nevertheless, I took the objections rather seriously and reviewed with the staff several months ago whether, for some reason, we were asking for data that was unnecessary.

The answer I got from the staff was convincing to me, at least, that what we were asking for was what we had to have and that we weren't creating a problem intentionally. We just wanted to be sure that the Commission was fulfilling its function and that the management problems that had been alluded to by the Chairman of the Commission were being handled in some way where the problems could be resolved.

Well, one of those management problems we were looking into were allegations that some age discrimination claims were expiring without resolution, that is, running, or exceeding, the statute of limitations.

When we asked EEOC about that situation in September, we were told that the number of claims that had run the statute might be 70. In December, that number rose to about 900. By March, the Commission told us that the total had gone to more than 1,200. About 1 month ago, the number suddenly jumped to more than 5,000. Last week, we learned that the number of charges that may have exceeded the 2- or the 3-year statute of limitations may be as high as 7,500.

At the first hearing, EEOC officials promised to cooperate with this committee in getting to the bottom of this problem. Unfortunately, the agency time and again failed to provide this committee with accurate and complete data on its enforcement operations.

As a result, the committee had no alternative but to subpoena the data from the EEOC headquarters and its 48 field offices. We did so on February 24 of this year, and the picture that the data has painted is not very pretty.

We saw an agency that was trying to keep track of thousands of age discrimination complaints with a multimillion dollar computer system 10 years in the making that flat out just doesn't work. What this agency has is a complicated, poorly designed computer system that few people can operate and understand, and that is indeed alarming.

It simply is not humanly possible to keep track of all of those cases and the companies involved without an efficient, well-programmed computerized tracking system that serves not only the headquarters but the field offices as well.

This alarming fact and others that we have discovered tell us that those rumors of mismanagement that we were hearing last year, sadly, are all too accurate. We know today that since the beginning of 1984, the EEOC has permitted thousands of age discrimination in employment charges to exceed, or run, the 2-year and 3-year statutes of limitations.

This effectively has denied thousands of older workers the right to pursue their claims that they were discriminated against for the sole reason that they were getting older.

The Vice Chairman of the Commission, Ms. Silberman, told a House subcommittee last winter that "a management system is only as good as the accountability that is built into it." I don't think anyone here would dispute that point, and that is precisely what these next 2 days of hearings are all about, accountability.

At that same House hearing, in March of this year, Chairman Clarence Thomas testified, "We never in our wildest imagination thought that anybody would miss a statute of limitations." Well,

neither did we, not until we began asking the Commission about this problem last fall.

I don't believe anyone would disagree that there is an accountability problem here, especially for thousands of older Americans who sought protection or assistance provided under the law, that law being the Age Discrimination in Employment Act. They saw their complaints die on the vine because they couldn't get out of an EEOC in-box.

To restore their legal rights, I introduced the Age Discrimination Claims Assistance Act, S. 2117, which was passed unanimously in the Senate and House and signed into law by the President on April 7 of this year. I am very pleased and proud that a number of my Senate colleagues co-sponsored the bill, including Senator Heinz, the ranking member and former chairman of this committee, and nine other members of this committee.

For those older workers who thought they had lost their day in court, this law extends the statute of limitations for an additional 18 months and allows them a second chance to have their complaint investigated and processed by the EEOC as required by law.

It also gives the Commission a second chance to do what it should have done in the first place. To comply with this law, the Commission has mailed notices to more than 7,500 individuals who had filed age discrimination complaints. I am sure that my colleagues join me in applauding this effort.

However, the Commission cannot be certain whether everyone whose case expired was notified of their second chance, and that is because many of the case files and records from 1984 through 1986 have been destroyed.

Obviously, this cannot be allowed to happen again. To deny anyone the right to seek their rights through the Commission and, if they can't be satisfied there, their right then to go to court and file within the district court before the time has expired—those basic individual citizen's rights are just part of what we rely on in this country as a protection of the overall law and the right of individuals to have their day in court.

We are not here to place blame at the feet of any individual. The causes of this situation go much beyond just an individual or a handful of individuals. What we face is a systemic problem. It is a system that is in confusion and disarray and a system driven by numbers of cases closed.

I am sure I speak for my colleagues in stating that our intention is to work with the Commission in correcting deficiencies. We are here to attempt to identify the problems that led to denial of rights to so many. More importantly, we are here to find solutions to these problems so that they don't happen again.

We begin these hearings with a group of witnesses who know first hand how certain problems within the EEOC contributed to the loss of rights of so many. These individuals have worked for years within the system. Five of today's witnesses are current managers and investigators for the EEOC. Our sixth witness managed one of the EEOC regions, including eight of the Commission's district offices, until his departure in 1987.

These witnesses are representative of the more than 2,000 personnel in the EEOC's 48 field offices. They serve on the front lines

working to process and resolve the thousands of discrimination charges that are filed every year. Therefore, I believe that, in many ways, our witnesses today are best able to shed light on how and why their agency took so long to discover that its management system was seriously lacking in accountability.

[The prepared statement of Senator Melcher follows:]

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United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

Opening Statement

SENATOR JOHN MELCHER

Chairman

Senate Special Committee on Aging

June 23, 1988

Good Morning. On behalf of my colleagues on the Special Committee on Aging, I'd like to welcome all of you to these two days of hearings on the performance of the Equal Employment Opportunity Commission in enforcing the Age Discrimination in Employment Act.

These hearings are the fruit of an investigation that began 10 months ago when the committee began receiving alarming reports about mismanagement within the agency. We held our first hearing in September. And what we found was an agency that was skeptical of any reports of management problems within its walls.

One of those management problems we were looking into was allegations that some age-discrimination claims were expiring without resolution -- that is, running the statute of limitations. When we asked EEOC about that situation in September, we were told that the number of claims that had run the statute might be 70. In December, that number rose to about 900. By March, the total had grown to more than 12-hundred. About one month ago, the number suddenly jumped to more than 5-thousand. And last week, we learned that the number of charges that may have exceeded the two- and three-year statutes of limitations may be as many as 75-hundred.

At that first hearing, EEOC officials promised to cooperate with this committee in getting to the bottom of this problem. Unfortunately, the agency time and again failed to provide this committee with accurate and complete data on its enforcement operations. As a result, the committee had no alternative but to subpoena the data from EEOC headquarters and its 48 field offices. We did so on February 24 -- and the picture that those data painted was not pretty.

We saw an agency that was trying to keep track of thousands of age-discrimination complaints with a multi-million dollar computer system, 10 years in the making, that flat didn't work. What this agency has is a complicated, poorly designed computer system that few people can operate or understand.

This is astounding to me.

It simply is not humanly possible to keep track of all of those cases and the companies involved without an efficient, well-programmed computerized tracking system that serves not only the headquarters, but the field offices as well.

This alarming fact and others we have discovered tell us that those rumors of mismanagement that we were hearing last year, sadly, were all too accurate. We know today that, since the beginning of 1984, the EEOC has permitted thousands of age discrimination in employment charges to exceed, or run, the two-year and three-year statutes of limitations. This effectively has denied thousands of older workers the right to pursue their claims that they were discriminated against for the sole reason that they were getting older.

The vice chairman of the EEOC -- R. Gaull Silberman -- told a House subcommittee last winter that "A management system is only as good as the accountability that is built into it." I don't think anyone here would dispute that point. And that's precisely what these next two days of hearings are all about -- accountability.

At that same hearing, EEOC Chairman Clarence Thomas testified, and I quote, "We never, in our wildest imagination, thought that anybody would miss a statute of limitations." Neither did this Committee. Not until we began asking the Commission about this problem last fall.

I don't think anyone would disagree that there is an accountability problem here. Especially those thousands of older Americans who complied with the law, only to see their complaints die on the vine because they couldn't get out of an EEOC in-box.

To restore their legal rights, I introduced the "Age Discrimination Claims Assistance Act" -- S. 2117 -- which was passed unanimously in the Senate and House and signed into law by President Reagan on April 7. I am proud that a number of my Senate colleagues cosponsored my bill, including Senator Heinz, the ranking member of the Aging Committee, and nine other members of this committee. But I'm most proud of what this bill has done for those who thought they had lost their day in court when their claims expired.

For them, this law extends the statute of limitations for an additional 18 months. It allows them a second chance to have their complaint investigated and processed by the EEOC as required by law. And it gives the EEOC a second chance to do what it should have done in the first place.

To comply with this law, the EEOC has mailed notices to the more than 7,500 individuals who had filed age-discrimination complaints. I'm sure that my colleagues join me in applauding this effort. However, the Commission cannot be certain whether everyone whose case expired was notified of their second chance. And that's because many of the case files and records from 1984 through 1986 have been destroyed.

Obviously, this cannot, and must never, be allowed to happen again. To deny anyone the right to seek and pursue through the EEOC and our courts redress to age-discrimination is to subvert the very foundation on which our legal system is built.

Let me say again what these hearings are all about -- and that is accountability, as Ms. Silberman said just a few months ago. Accountability within the EEOC as the institution charged with enforcing our laws prohibiting age discrimination in employment. We are not here to place blame at the feet of any individual. The causes of this situation transcend individuals. What we face is a systemic problem -- a system in confusion and disarray -- a system driven by numbers of cases closed.

I am sure I speak for my colleagues in stating that our intention is to work with the EEOC in correcting deficiencies. We are here to attempt to identify the problems that led to denial of rights to so many. More importantly, we are here to find solutions to these problems so that we are never again faced with this unfortunate situation.

We begin these hearings with a group of witnesses who know first-hand how certain problems within the EEOC contributed to the loss of rights of so many. These individuals have worked for years within the system. Five of today's witnesses are current managers and investigators for the EEOC. And the sixth managed one of the EEOC's Regions, including eight of the Commission's District Offices, until his departure in 1987.

These witnesses are representative of the more than 2,000 personnel in the EEOC's 48 field offices. They serve on "the front lines," working to process and resolve the thousands of discrimination charges filed every year. Therefore, I believe that, in many ways, our witnesses today are best able to shed light on how and why their agency took so long to discover that its management system was seriously lacking in accountability.

-30-

The CHAIRMAN. Senator Heinz.

STATEMENT OF SENATOR JOHN HEINZ

Senator HEINZ. Mr. Chairman, as you point out, about 9 months ago, you convened a hearing to review 20 years of enforcement of the Age Discrimination in Employment Act and to evaluate EEOC's work as an enforcement agency. Today, we begin 2 days of hearings to continue that same question. That question is, quite simply, how well is the EEOC enforcing the Age Discrimination in Employment Act?

There is no question in my mind that EEOC's operations are of vital concern to older Americans. Age discrimination in employment is a widespread problem in this country. The mission of the agency is to vigorously investigate and litigate age discrimination charges, and that mission is the only weapon we have to protect older workers from arbitrary punishment based solely on becoming old.

EEOC has not always been as effective as we would have wanted it to be in handling cases. This committee has worked with EEOC on several occasions to improve their enforcement of the ADEA.

I can remember back in 1982, when there was a different distinguished chairman of the committee, only a few years after EEOC took over enforcement of ADEA—it has only within a relatively few years become the purview of EEOC—that this committee issued a report criticizing EEOC for pushing for the rapid settlement of age cases and not adequately investigating charges and bringing cases to court. EEOC was then facing very serious staff cutbacks, and the committee wanted to discourage the EEOC from any temptation to conserve resources by further reducing its enforcement efforts.

The response of the agency under its current Chairman, Clarence Thomas, was to cut back on the rapid charge processing and put more of the agency's limited resources into investigative efforts. I might add that there were specific recommendations by the watch dog arm of Congress, the General Accounting Office, and there was broad agreement both in this committee and in all the other committees that that is what should have been done.

In the last 4 years, as a result, the EEOC has indeed significantly increased the number of charges it has investigated and brought to court and has greatly increased the average dollar settlement per case.

At the same time, the EEOC has had to learn to deal with Congress' split personality. A good example of it is right up there on the wall.

The authorizing committees have expected the EEOC to put more effort into investigation and litigation without delaying processing, as we see on the right hand side. First, there are plenty of charges coming into the agency. Second, if you are going to investigate cases, that is going to be much more labor intensive.

At the same time, the number of people in the agency have been going down. Why? For a very simple reason—the appropriating committees of Congress have been cutting back on the money while those of us on the authorizing side have been saying do a better job

and do more. In fact, EEOC's fiscal year 1988 appropriation—that is the year we are now in which ends in September, hopefully—is $20 million below the level requested by the Administration, $20 million below the level requested by the Office of Management and Budget. It funds, therefore, 200 fewer staff positions than the agency had in 1980, and that is pretty well documented over there on the right.

EEOC has, therefore, struggled within this budget to improve the efficiency of its enforcement program by improving its budgeting and personnel management ability, initiating badly needed training activities, and installing improved methods to manage and track cases.

Now, the EEOC has a difficult but equally serious problem in the handling of age cases. It has not been processing them quickly enough to get them to court before the statute of limitations expires.

Mr. Chairman, as you have already noted—and I think we would all agree with you—the loss of rights for older workers whose cases were not processed quickly enough is a very serious problem, and I understand that somewhere between 2,000 and 5,000 of the ADEA charges filed since 1983 have indeed run the 2-year statute of limitations.

Of course, Mr. Chairman, your legislation which most of us were pleased to co-sponsor, S. 2117, will now restore the rights to those affected workers.

Moreover, what I am interested in is why these cases were in fact allowed to run the statute and what the EEOC has done or will do to make sure that this cannot happen in the future. First of all, I must say, I am concerned about the statute itself. Why have we included in a law protecting workers from discriminatory practices a provision that eliminates those workers' rights if a Federal agency fails to act quickly enough? Two years is not a lot of time if the first year can be exhausted before a charge is even brought to the agency.

I will be interested in the witnesses' comments—and we have six very knowledgeable witnesses at the table—about whether this limitation on workers' rights is the right limitation and what problems it in fact, as written now, creates for the EEOC in processing these charges.

Second, I note from the materials collected by the committee that not all of EEOC's 23 field offices had a problem with ADEA charges running the statute. Several field offices were able to process all their ADEA claims within the statutory period.

I will be interested in hearing from the witnesses on why some field offices had problems and others didn't. Were these field offices unable to set priorities? Were they unable to set up an internal charge tracking system to manage these cases? Were they more poorly staffed than other offices? Did they have heavier case loads? Were they unable to transfer cases to other field offices that were better equipped to handle the cases? Were they simply poorly managed?

Third, I am interested in knowing what the EEOC is going to do about this problem. Now that there is a computer tracking system that keeps track of statute of limitation cases, is this going to be

enough? Are there other management techniques that some field offices have that should be transferred to the problem offices, or do these offices need more manpower and a higher level of training? In short, can EEOC fix this problem with its existing resources, or does Congress need to give them a more reasonable appropriation?

Mr. Chairman, as one who has supported the committee's right to get the very extensive information on these problems earlier this year, I hope we can focus on these kinds of problems and not get into some kind of a fishing expedition or exercise in beating dead horses. I don't think we will; I hope we don't, because our goal should be really a way of solving these problems, not trying to figure out who struck John.

So, Mr. Chairman, thank you very much.

The CHAIRMAN. Thank you for your comments, Senator. I can assure you that there won't be any beating of dead horses.

Senator HEINZ. Not from a veterinarian, I am sure.

The CHAIRMAN. Not from a veterinarian. That is for sure. My job has always been how to cure the horse, and I think we have a pretty sick horse here who needs a lot of curing and a lot of treatment. I think we are all convinced of that. Let's see which way the best way is to start out the regime of treatment.

Senator Shelby.

STATEMENT OF SENATOR JOHN SHELBY

Senator SHELBY. Thank you, Mr. Chairman.

Mr. Chairman, I want to commend you and the staff for all the work you have done in preparation for this hearing today. I would also like to thank the panel of witnesses for coming forward and providing this committee with some valuable insight as to the nature of the problem before us and, hopefully, some possible solutions.

Mr. Muse and Ms. Hannah, I am particularly pleased to welcome you from Alabama to this committee, and I am anxious to learn of some of the problems that you have encountered throughout your tenure with EEOC, especially in the Birmingham office.

Over the last year, I have learned of the tremendous number of claims under the Age Discrimination in Employment Act which have exceeded the 2-year statute of limitations. This, as you well know, effectively bars claimants from having the opportunity to present their case before a court.

Failure to timely process these charges further disadvantages an individual who may already be the victim of employment discrimination. Such a pattern of discrimination, at the expense of the senior worker, cannot be tolerated and I do not believe the Congress is going to tolerate it.

It is my hope that these hearings will identify the reasons for the EEOC's delay in responding to the charges the agency receives. Once we have successfully identified the problem or problems, whether it is a lack of adequate manpower, an inoperative computer system, a restrained budget, poor management, or whatever, I believe then we can begin to formulate responsible solutions.

Mr. Chairman, I commend your swift response to this problem, and I was proud to also be an original co-sponsor of your bill, S.

2117, the Age Discrimination Claims Assistance Act. I am anxious to learn of the EEOC's progress in complying with this law, and I believe this legislation is going to go a long way, Mr. Chairman, to protect the elderly.

Thank you.

[The prepared statement of Senator Grassley follows:]

STATEMENT OF SENATOR CHARLES E. GRASSLEY AT A HEARING OF THE SPECIAL COMMITTEE ON AGING ON THE SUBJECT OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, JUNE 23, 1988

MR. CHAIRMAN, I HAVE HAD MY SHARE OF DISAGREEMENTS WITH THE E.E.O.C. OVER THE YEARS.

I WAS CONCERNED RECENTLY ABOUT THE INTERPRETATION IN E.E.O.C. REGS OF CERTAIN PROVISIONS IN THE PENSION ACCRUAL LEGISLATION WHICH I HELPED MAKE LAW.

I LET E.E.O.C. KNOW ABOUT MY CONCERN ABOUT THE WAIVER OF RIGHTS UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT WHICH HAS BEEN AT ISSUE RECENTLY.

THESE ARE POLICY DIFFERENCES OVER WHICH THERE CAN BE HONEST DISAGREEMENTS.

BUT, WITH OTHER MEMBERS OF THIS COMMITTEE, I WAS ANGRY WHEN IT CAME TO LIGHT THAT A LARGE NUMBER OF AGE DISCRIMINATION CHARGES HAD LAPSED UNDER THE STATUTE OF LIMITATIONS IN THE AGE DISCRIMINATION IN EMPLOYMENT ACT, AND CO-SPONSORED THE AGE DISCRIMINATION CLAIMS ASSISTANCE ACT, A BILL INTRODUCED BY CHAIRMAN MELCHER TO REINSTATE THE RIGHTS OF THOSE WHOSE CLAIMS HAD LAPSED.

CHAIRMAN THOMAS SUPPORTED THE AGE DISCRIMINATION CLAIMS ASSISTANCE ACT, AS HE SHOULD HAVE, AND HAS COMMITTED HIMSELF TO ITS VIGOROUS IMPLEMENTATION. I AM INTERESTED IN LEARNING DURING THE COURSE OF THIS HEARING BOTH HOW A LARGE NUMBER O' AGE DISCRIMINATION CHARGES COULD HAVE BEEN ALLOWED TO LAPSE, AND, EQUALLY IMPORTANTLY, WHAT HE AND HIS COMMISSIONERS HAVE BEEN DOING TO IMPLEMENT THE ACT, AND THEREBY TO SET RIGHT WHAT BOTH WE AND HE FEEL IS A SERIOUS WRONG.

NOW, I AM AWARE MR. CHAIRMAN, AS I AM SURE ARE OTHER MEMBERS OF THE COMMITTEE, THAT CHAIRMAN THOMAS AND THE OTHER COMMISSIONERS FEEL STRONGLY THAT THEY HAVE MADE CONSIDERABLE PROGRESS IN MANY IMPORTANT AREAS OF THE AGENCY'S WORK SINCE MR. THOMAS TOOK OVER AS CHAIRMAN IN 1982.

MR. THOMAS HAS STATED THAT THE AGENCY WAS A "BASKET CASE" WHEN HE BEGAN THERE. AND HE CITES AMONG HIS ACCOMPLISHMENTS IMPROVEMENTS WHICH HAVE RESULTED IN RECORD NUMBERS OF CASES FILED, AND RECORD LEVELS OF MONETARY BENEFITS FOR VICTIMS THROUGH LITIGATION AND COMPLIANCE.

THEREFORE, MR. CHAIRMAN, IT IS RIGHT AND PROPER --- IT'S IMPERATIVE --- THAT THE COMMITTEE GET TO THE BOTTOM OF THE LAPSED CLAIMS MATTER AND MAKE SURE THAT NOTHING LIKE THAT CAN HAPPEN AGAIN.

BUT I HOPE THAT, IN SO DOING, WE WILL ALSO BE WILLING TO REVIEW MR. THOMAS' ACCOMPLISHMENTS AND TO SEE THE CRITICISM WE WILL HEAR TODAY IN THE PERSPECTIVE OF MR. THOMAS' OVERALL EFFORT TO IMPROVE THE OPERATION OF THE AGENCY.

I HAVE NOTHING MORE FOR THE MOMENT, MR. CHAIRMAN.

The CHAIRMAN. Thank you, Senator Shelby.
Senator Simpson.

STATEMENT OF SENATOR ALAN K. SIMPSON

Senator SIMPSON. Mr. Chairman, I thank you, and my comments will be brief, too.

I think this is a good hearing to have on the activities of the Commission. It is a small agency with a small budget, as you have indicated, and Senator Heinz has indicated. It has some serious responsibilities, enforcing Title VII, the Equal Pay Act, and the Age Discrimination in Employment Act.

The information they provide to us shows that the agency received about 46 million "charges" last year to process under Title VII, 15 million charges under ADEA, and 1 million charges under the EPA. The total number there is up from the 1982 figure of 50 million, to 62 million in 1987. In the same period, the filed legal actions went from 241 to over 500. Yet, staff levels have been cut because of the budget deficit.

Indeed, like any agency of government, it is not without its problems. Indeed not. We will hear, I am sure, in detail about that.

Of course, the agency found these cases that had become stale because of the backlog. The agency acknowledged those problems in a hearing in the House, on the House side this past January, and in fact, publicly flogged themselves in the process of telling about those problems, and have made efforts to correct the situation.

We have given assistance in the form of the Age Discrimination Assistance Act, introduced by our able chairman. That was his move to help correct the problem, and that was done, signed into law.

Of course, we all know what that did. It extended the statute of limitations for cases that could be identified within the short 60-day period.

I am advised, at least I think—maybe hope would be the word—that this is the "final wrap-up," in 2 days of hearings on EEOC enforcement of the ADEA. I don't know how much further we want to go in this, a rather unprecedented 2 days of hearings to do it, and I hope to participate as much as I can.

We had a hearing last September. There has been exactly 1 metric ton of energy spent on investigations. I am sure of that. Some say the investigations expended 6,000 manhours of the agency's time and about $100,000 and, certainly, lots of the staff time of this committee.

So, hopefully, we can try to put this one to rest with this set of hearings. We have already seen that some charges have been stale, about 1,600 by last count, so maybe we won't have to plow that ground again.

The agency is making every effort to notify many of the persons who may have been affected by this oversight. Some 7,500 persons will be notified that they may benefit from the act. The agency is showing that it intends to comply in good faith with the act.

They have made mistakes. They have said that, and we will hear again from these witnesses. I hope it will not just enlighten us on what went awry and how bad it might be—and if we do that, that

is what we are here for, too. But we also need to discuss what we will do to correct the problems instead of just chipping away on it. Maybe somebody can give us some good thoughts about steps to be taken to comply with the Act and efforts that are being made to help those of us in Congress and in the EEOC to improve the performance of the agency, and not just spend more bucks or tell us they need more manpower. That is the ancient litany of all agencies of every agency in every Administration that I have ever been confronted with, in or out of Washington.

So, Mr. Chairman, I hope we don't get completely wrapped up and carried away with the whole thing. I would hunch these witnesses have much to do such as carrying out the goals of the agency and improving the enforcement of all of the laws with which the agency is entrusted.

I think we must be very careful about the demands we place on ourselves and any agency. If we are going to increase the burdens on any agency in these times of budget austerity, then it makes it ever more difficult for that agency to function properly.

An increased emphasis, obviously, on the ADEA will most certainly take away from the other activities of the agency in enforcing Title VII and the EPA. So, I hope we remain balanced and objective and not just get into some long simmering cat fight that has been going for some time with regard to getting information and "whether we are getting enough information" and, "they are stonewalling" and "the staff is driving us crazy." Maybe we can develop the issues from both sides and see that we get into something important. Oversight, yes, but overzealous, no. That is my philosophy on these kinds of things, as they do get pretty raucous.

So, I am ready to listen and participate and hope we can do this in a sensible way that will get us to where we want to go, and that is seeing that the aged are taken care of but without, you know, a lot of recrimination and high emotion and drama.

I thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Simpson.

Senator Heinz referred to beating a dead horse and you have referred to a cat fight. Is there anything—should I draw anything from that?

Senator SIMPSON. Well, I think we will leave the animal aspects out. I wouldn't want to do that with a veterinarian.

Senator HEINZ. Let's leave a sleeping dog lie. [Laughter.]

Senator SIMPSON. We will let the old grey fox lie. How about that?

The CHAIRMAN. Well, Al, what happens to a lawyer in private practice when the statute of limitations runs out on a client?

Senator SIMPSON. Well, as you have uncovered it is a very serious thing, and it is done. I admire your work on that, and I have helped you. You know, I voted for this thing, too. That is what we have already done.

What happens to a lawyer, unless he has a client with unlimited resources is, at some point in time, he quits. That is what I am saying. In other words, you have done some good oversight. They flunked the test. They messed up. They came in and said it in English in crisp words—they said, "we goofed, We are embarrassed and it won't happen again."

Now, I think our job is to go see that they did correct it, and that is very important, but if we are going to just go through 2 days of how they did worse and worse and worse, and if we already know that, that is a waste—that is all I am saying. I think there is a point of repetition that is not attractive.

The CHAIRMAN. Well, I guess that is almost a rhetorical question. I only ask it of you, Al, because it is a most serious thing when, as I understand it from attorneys in our own State and I think our State is typical, a client is not notified when the statute of limitations is about to run out so they can take some other action, and that is exactly where the rub came here. If the clients, that is, the citizens that approached the Commission, became aware that the statute of limitations was running out, they could take some other action and go to Federal court themselves and establish their claim.

Senator SIMPSON. Well, Mr. Chairman, because of you, we corrected that situation, and I am fully prepared to give you the credit for that.

The CHAIRMAN. No, it must be said also that the Commission was highly in favor of passage of that bill. The administration was very much in favor of it.

I think what we are here for today is to obtain testimony from individuals who have been with the Commission a long time as employees and who can tell us what is wrong with the system and make sure the system is corrected, because we can give everybody another 18 months, as that statute provides to exercise their rights, but they are primarily going to rely on the Commission to protect them and not go to a private attorney, and we want to see that the Commission can get itself in shape to handle the cases and to dispose of them and to protect the rights, as much as possible, under the law of the individual claimants.

Our six witnesses here today will testify as a panel. We have, first of all, Mr. Joseph Bennett who, until March 1987, was Director of the EEOC's Region II, including eight district offices, and is now Director of the Office of Human Rights for the City of Alexandria, VA.

We also have Ms. Lynn Bruner, Director of the St. Louis District Office; Mr. Donald Muse, Director of the Birmingham District Office; Mr. Hermilo Gloria, Director of the Phoenix District Office; Ms. Vanessa Hannah, an Investigator in the Birmingham District Office; and Mr. Levi Morrow, Senior Investigator in the Dallas District Office.

All of these witnesses have been given a protective subpoena so there can be no question of any discouraging remarks or reprisal for whatever they say here today. I trust that any fears on their part are completely unwarranted, but we want it made clear that that is the case, and if there is any problem afterwards in that you feel you are being harassed, I am sure all of the committee members would like to know, and we would want to be informed immediately by you as individuals.

Will all of the witnesses please stand?

[Witnesses sworn.]

The CHAIRMAN. Thank you, and please be seated.

We are going to have a vote. We do have a vote on.

Senator Chafee?

STATEMENT OF SENATOR JOHN CHAFEE

Senator CHAFEE. Thank you, Mr. Chairman.

I don't have an opening statement. Is this a vote on?

The CHAIRMAN. We will check. Please forgive our confusion here. If that clock is right, we have a vote that has just started.

I am advised that the clock is wrong. There is no vote, and we will proceed.

Mr. Bennett, we are going to hear from you first.

I have already mentioned Mr. Bennett's background, and I might tell the committee that we are talking to a person that has been through this work with the EEOC for a number of years. I understand, Mr. Bennett, that as Director of Region II from 1983 to March of 1987, you were responsible for overseeing the performance of 8 of the EEOC's 23 district offices. Is that correct?

STATEMENT OF JOSEPH BENNETT, DIRECTOR, OFFICE OF HUMAN RIGHTS, CITY OF ALEXANDRIA, VA, FORMER DIRECTOR, EEOC REGION II

Mr. BENNETT. Yes, it is.

The CHAIRMAN. Could you identify—I don't know whether I want to go through all those offices, but, for which region of the country were you responsible?

Mr. BENNETT. It was the middle part of the country, the Midwest down through the Mississippi Valley down to New Orleans.

The CHAIRMAN. And so you were in charge of eight of the district offices that were in the Midwest?

Mr. BENNETT. That is correct.

The CHAIRMAN. And which ones—well, can you give us an idea of just which ones they were?

Mr. BENNETT. Chicago, Cleveland, Detroit, Indianapolis, Milwaukee, St. Louis, New Orleans, and Memphis. I think that is eight.

The CHAIRMAN. Were you responsible for conducting on-site quality reviews of performance in the district offices?

Mr. BENNETT. Yes, Mr. Chairman, that is correct.

The CHAIRMAN. And that is a responsibility of each regional director. Is that correct?

Mr. BENNETT. That is correct.

The CHAIRMAN. In performing these on-site reviews, did you, among other things, check to see if the district offices were processing and resolving ADEA charges, age discrimination in employment charges and complaints, within the 2-year statute of limitations?

Mr. BENNETT. Yes. As a result of our on-site reviews, if we ran across a problem like that, we would go further into it. We basically would look at a certain number of cases that had been closed and some that were open and review them. I would say that we specifically did not zero in on ADEA cases to see if they were running the statute, but we would have reviewed some of them in our review process.

The CHAIRMAN. Well, did you feel in 1986 or even earlier that it was important that age discrimination charges not be allowed to exceed the 2-year statute of limitations?

Mr. BENNETT. Certainly, that would be a very, very important thing to do. Basically, it should have been very simple to manage that. If you can count, you can—

The CHAIRMAN. Well, when did you become aware that there was a problem with charges running the statute?

Mr. BENNETT. As I recall, in the spring of 1986, some of my staff members went to one of the district offices on a review and found out—I think there were maybe 65 or 68 cases where the statute had run in this one district office.

The CHAIRMAN. 65?

Mr. BENNETT. I believe that was the number, somewhere like that.

The CHAIRMAN. What specifically brought it to the attention of the reviewers if you hadn't seen it before, if it hadn't been reported before?

Mr. BENNETT. I was not physically on that review, so I don't know how the staff members dug that up. I can speculate that in their review of cases, they happened to run across one and started looking further and then looked at the whole array and determined that was the number. As I remember, 50 of them were with one investigator.

The CHAIRMAN. Mr. Bennett, there are a number of internal EEOC documents on the table before you for your reference.

The first is a report on a quality review of the Detroit office conducted in May 1986 and dated July 1986. Under the heading, "Case Management," it states, in part, "There are some 68 age and 9 age concurrent cases in the office's inventory in which the 2-year statute for filing suit has expired. It is evident that an effective monitoring system of the ADEA 2-year statute has yet to be implemented."

Do you recall that report?

Mr. BENNETT. Yes, I do, very much so.

The CHAIRMAN. Was it forwarded on to your superiors?

Mr. BENNETT. Yes, it was.

The CHAIRMAN. That was in July 1986?

Mr. BENNETT. Yes, sir, that is correct.

The CHAIRMAN. According to your deposition on June 13 of this year, you became aware in 1986 of the results of a review of the Los Angeles District Office conducted in January 1986. What were the findings of that review concerning age charges running the statute of limitations?

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

July 16, 1986

To : Joseph Wiley, Director
Detroit District Office

From: Joseph S. Bennett, Director
Region II Programs
Office Of Program Operations

Sub : Detroit District Office Field Trip Report

During the week of May 27, 1986, we conducted an extensive review of your office for the purpose of examining open and closed charge files and your Office's case management systems.

Overall, we were favorably impressed with a number of improvements implemented since FY-85. In the charge file reviews, we observed that a more functional investigation plan format has been implemented and that RFIs tended to adequately address the issues under investigation. Furthermore, of twenty-three Rapid and Extended charge files reviewed, no files were noted in which the evidence of record did not support the finding.

However, a number of problems were noted in our review of State and Local files. These will be specifically addressed, together with a number of concerns relating to the Office's case management systems in the body of this report.

The following are our specific findings.

A. Rapid and Extended Charge File Reviews

1. Investigation Plans:

Overall, we note that the quality of investigation plans has improved substantially in FY-86. The Office has implemented a new plan format which addresses jurisdiction, theories of discrimination, the proposed scope of the investigation, and other sources of information to be tapped. This represents a significant first step in the development of an effective planning process. However, we wish to emphasize that a functional investigation plan is a flexible document, which not only identifies basic information available and needed, but also outlines a proposed strategy for the investigation. We noted that some of your plans defined the strategy of the planned investigation only in very general terms and we suggest that further refinement in the preparation and use of plans is needed. For instance in an individual harm discharge case, because the plan failed to identify the specific department, positions, or group to be examined, our review of the plan created the initial impression that the intention was to investigate the entire facility. Although we understand that this was not the investigator's intention, it is illustrative of a need for more precisely defining the strategy or scope of a planned investigation. Therefore, we recommend that your Office continue to refine the design, preparation, and use of your investigation plans.

2. Requests For Information:

The RFIs examined, adequately addressed the issues under investigation and in most instances requested copies of the documents containing the required data. Two cases were noted, however, in which data requests were made that required respondents to create lists (i.e. lists of all disciplinary actions, of all employees laid off, and of employees discharged), rather than soliciting copies of the documents containing the data. 1/ Therefore, we wish to emphasize that the focus of an RFI should always be to obtain the best evidence available and to lay the necessary foundation for a subpoena action, should respondent fail to comply with the request.

3. Closure Actions:

Twenty-three case files involving unsuccessful conciliations, no cause findings, and a variety of administrative closures were reviewed. No case was noted in which the evidence of record was inadequate to support the finding.

B. State And Local Charge Files

1. Credits For Other Than Accepted Charge Resolutions:

Seven cases were reviewed in which the District Office awarded contract credits pursuant to section 4 of EEOC Order 916, Appendix A. This section provides that under specified circumstances contract credit may be awarded even though EEOC is not accepting an FEPA final finding.

In five of the seven cases, contract credit was awarded pursuant to section 4(I)(E), which provides that deferral charges closed by EEOC because of the issuance of a Notice of Right to Sue, will received contract credit if the FEPA has conducted a "substantial investigation" at the time of EEOC's issuance of the Notice of Right to Sue. However, our review of these five files disclosed no documented evidence that the FEPA file had ever been reviewed or that the FEPA had conducted a substantial investigation. 2/ Furthermore, an examination of the corresponding ledger cards indicates that, for at least two of the cases, it is highly unlikely that the FEPA conducted a substantial investigation. These ledger cards indicate that on the date the FEPA was awarded the two contract credits, the two cases had been in the FEPA's workload a total of twenty-three days for one case and thirty-one days in the other. 3/

These cases were discussed with the State and Local Coordinator who indicated that she had reviewed the FEPA files on-site, but had understood the concept of "substantial investigation" to mean that, in a given case, the FEPA has done all is can in the time it has had to process the case. Using this definition, it is conceivable that a FEPA could be awarded a contract credit for assigning to an investigator a case it received only two days earlier. We do not believe this construction was intended and recommend that your Office develop some broad guidelines for identifying when an FEPA's work product will be deemed to constitute a "substantial investigation. In doing so please keep in mind that in some types of "additional credit" actions your Office will need to continue to process the case. Therefore, we recommend that in developing your guidelines you focus on how much of your resources would be expended if you had to complete the investigation, irrespective of whether you in fact have to do so.

Additionally, in none of the seven files was there adequate documentation of the District Office's review of the FEPA's investigation. Although all of the files contained an EEOC Form 214, some of these forms were not signed by the reviewing official and/or the approving official and none contained a review of the evidence obtained by the FEPA. Under the circumstances, we must conclude that necessary information is not being made available to the approving official. Therefore, we must inquire on what bases can the approving official express concurrence or nonconcurrence with a recommended action? This identical concern was addressed in our August 21, 1985 field trip report. However, since the problem remains, we will repeat our recommendations. When conducting additional credit reviews pursuant to sections 4(I)(C), 4(I)(D), 4(I)(E), or 4(I)(F) of EEOC Order 916, Appendix A, please instruct your staff that a memorandum to the file is to be prepared (EEOC Form 214 may be used for this purpose) which:

a. identifies the reason(s) for conducting an additional credit review;

b. indicates whether the review is authorized under EEOC Order 916 and cites the appropriate section;

c. provides a general outline of the information obtained by the FEPA in it investigation and identifies what, if any, information is needed to complete the investigation;

d. contains a concluding statement recommending that contract credit should or should not be awarded; and

e. is signed by both the reviewing and approving officials (note: the approving official should be a GM-13 or above).

Because our review indicates that contract credits have been awarded under circumstances other than those authorized by section 4, it is necessary that your Office immediately begin reviewing all files receiving a section 4 credit in FY-86. Each case file should be reviewed to determine if:

a. the review was authorized under section 4(I)(C), 4(I)(D), 4(I)(E), or 4(I)(F) of Order 916; and

b. (if the above is answered in the affirmative), the FEPA investigation had been completed or nearly completed, depending upon the specific section cited as authority for the additional credit (note: under section 4(I)(C) the FEPA investigation must be complete in order to receive contract credit).

Additional contract credits accorded to the FEPA in FY-86 under circumstances other than those enumerated in section 4 of EEOC Order 916, will have to be rescinded and manually prepared reports corrected.

Once you have completed this task, please prepare a report addressed to me certifying:

a. the total number of cases files reviewed and the corresponding charge numbers;

b. the total number of case files and the corresponding charge number for each file in which a contract credit previously awarded was found to be improperly authorized and, therefore, rescinded;

c. that all necessary corrections have been made to the charge lists, the EEOC Monthly Statistical Reports on FEPA Contract Performance, and FEPA Monthly Performance Reports;

d. that you have notified the affected FEPA of the corrections; and

e. that you have provided the affected FEPA and Headquarters with copies of the corrected reports.

This report should be received by my Office no later than August 29, 1986.

In four of the five cases in which the charging party's request for the issuance of a Notice of Right lead to the additional credit review, we also noticed that rather than issuing the notices in the State and Local function, the files were reassigned to the Rapid function for closure. Since we see no programatic justification for such a procedure, it would appear that the intent is to inflate RCP production figures. We discussed this finding with one of the Compliance Managers, who informed us that he recently became aware of the practice and has had it discontinued.

2. Substantial Weight Reviews:

We examined eight substantial weight review files and noted a number of serious problems. In the first two files the FEPA no jurisdiction findings were accepted and credited. The charges were filed by a married couple against Park manor Apartments and closed because the wrong respondent had been named. However, the fact that the wrong respondent had been named is evident on the face of the charge, which

alleged a violation date of April 28, 1985 and indicates that..."In 1984, the complex was sold to Growth Equities, Inc.". 4/ Therefore, pursuant to section 2(I)(E) of EEOC Order 916, Appendix A, contract credit should not have been given. This section provides that EEOC will not give accepted closure credit for charges closed for lack of jurisdiction unless an investigation was required to determine this lack of jurisdiction.

In pursuing this matter further, the identical charges filed against Growth Equities were also reviewed and we found the FEPA had received contract credit on these submissions as well. In other words, the FEPA was paid twice for the same cases. We also noted that the FEPA's "Closing Transmittal" submitted to the District Office is misleading. This document indicates the following:

> "This complaint was taken against the wrong respondent. The claimant has been notified and a new complaint (has been) taken against the correct respondent."

Upon reading this, one is left with the impression that a new charge was take after the error was discovered. However, an examination of the records indicates that all four charges were taken on the same date (i.e. May 22, 1985).

A similar type problem was noted in another charge filed against K-Mart Corporation. As in the previous cases, the FEPA's no jurisdiction finding was accepted and credited. The FEPA documents indicate that the wrong respondent was named and a copy of the new charge naming the correct respondent was submitted as an attachment. However, the correct respondent, as identified in the new charge, is K-Mart Apparel Corporation, which appears to be a subsidiary of the K-Mart Corporation. 5/ Therefore, contract credit should not have been awarded on the initial charge. In circumstances such as these rather than taking a new charge, the original charge should be amended.

Because our findings indicate that in some instances no jurisdiction findings are being credited contrary to the requirements of Order 916, double payments have been made, and there may be some remaining cases in deferral in which a double payment will be made, it is necessary that your Office immediately review all credited no jurisdiction findings for FY-86. All no jurisdiction findings receiving contract credit contrary to the requirements of Order 916 or receiving double payments will have to be rescinded.

Once you have completed this review, please prepare a report addressed to me certifying:

a. the total number of case files reviewed and the corresponding charge numbers;

b. the total number of case files and the corresponding charge number for each case file in which a contract credit was rescinded;

c. that all necessary corrections have been made to the charge lists, the EEOC Monthly Statistical Reports on FEPA Contract Performance, and FEPA Monthly Performance Reports;

d. that you have notified the affected FEPA of the corrections; and

e. that you have provided the affected FEPA and Headquarters with copies of these corrected reports.

This report should be received by my Office no later than August 29,1986.

C. Case Management

1. Unit Inventory/Case Distribution:

An examination of a May 27, 1986, printout revealed that there are some sixty-eight ADEA and nine ADEA concurrent cases in the Office's inventory in which the two year statute for filing suit has expired. Sixty-nine of these cases are in the ECP function, of which fifty-three are assigned to one investigator. As of the date of the printout, the number of days over the two year period ranged from three days to six-hundred and five days. It is evident from this data that an effective monitoring system of the ADEA two year statute has yet to be implemented. Additionally the large number of ADEA cases in the ECP function continues to be a source of some concern. As noted in our April 10, 1985, field trip report:

> "Absent a showing that these charges had some reasonable litigation potential or were being processed as class charges, this concentration of ADEA charges in the Extended function is unwarranted.".

Therefore, we recommend that your Office immediately:

> a. identify all cases in which the time limit for filing suit has expired and prepare a plan of action to expedite their processing;
>
> b. establish an effective system for monitoring the ADEA two year time limit for filing suit;
>
> c. review the ECP inventory and identify all cases which are appropriate for RCP processing and code them accordingly; and
>
> d. develop a screening system to assure to the extent practicable, that charges forwarded to the ECP unit are appropriate for extended processing (note: one possibility you may wish to examine is the "Screening Committee System used in the St. Louis District Office").

Once these actions have been taken, your Office will be left with a leaner more focused ECP inventory and a system for assuring that cases coming into the function at least have some potential for contributing to the Office's litigation program.

2. Case Load Management

Except for the deficiencies relating to the management of ADEA cases referred to above, we note that your Office has made significant improvements in managing its case load. Supervisors appear to be conducting regular periodic meetings with their professional staff in order to discuss the status of charges assigned to their units and affect the quality of final products. Furthermore, the data indicates that supervisory personnel are attempting to manage total processing time by setting target dates for the completion the distinct phases of investigations. In short, it appears that your Office is moving in the direction of establishing an effective case load management system. However, we suggest that your Office can make more effective use of the system by adopting a "workload management approach" to the system, rather than a production orientation. We observed that reports to upper management generated from the operation of this system, mainly focus on what has been produced. To the extent that production, in the past tense, becomes the sole focus of information, management is limiting its ability to project what can be produced in the short term and therefore its ability to manage those anticipated products. What we are suggesting is that supervisory personnel provide upper management with periodic "workload status" reports. For instance, supervisory personnel can provide upper management with unit reports at the beginning of each quarter which reflect:

a. anticipated closures and corresponding outcomes by month for the next three months;

b. the status of cases already identified as have litigation potential;

c. information relating new potential litigation cases; and

d. information relating to unusual problems such as a large number of unassigned cases or 300 day cases.

With this type of information management can set its priorities and make necessary adjustments to meet office needs, rather than having to react to problematic situations after they occur.

3. Production Improvement Project

The preliminary data on your Office's improvement project indicates that it has the potential for both increasing RCP productivity and reducing the 300 day inventory. However, we note that the number of cases identified for consolidated processing is relatively small. We, therefore, suggest that you identify cases involving other respondents for similar treatment.

4. Compliance Legal Coordination

Although we recognize that an effort is being made to improve the coordination of cases between the compliance and legal functions, a significant amount of planning and execution remains to be done. Throughout this report we have been discussing a number of related areas which will affect your Office's ability to establish and maintain an effective coordinatioh system. These involve such things as maintaining an focused ECP inventory, identifying potential cause cases from all possible sources, and obtaining periodic work load status reports. Elements such as these provide a necessary foundation upon which to build and as alluded to earlier we note that the process has begun. It is our understanding that an attorney has been assigned to each compliance unit as a resource person and the Legal function has established a format for documenting evidentiary reviews of cause recommendations, which should provide compliance personnel useful feedback. However, in order to maximize the effectiveness of your system, the Legal function must take an active role in the processing of potential cause cases as early as possible. A two way communication system must be maintained, so that the Legal function does not have to wait from compliance to initiate a contact in order to become involved in the process. For such a system to succeed, the Legal function must be provided with and maintain basic charge status data on potential litigation cases in the system. Information such as that suggested in the work load status report (i.e. the status of cases already identified as having litigation potential and the status of new cases believed to have litigation potential) provides a basis on which to initiate contact and affect the development of cases.

D. Conclusion

As this report reflects, although your Office has implemented significant operational improvements, there remains a number of areas which require your immediate attention. Please review this report with your compliance and legal management staff and prepare a memorandum addressed to me, outlining in detail the direction you intend to take in addressing the concerns cited in this report. Your report should be received by my Office no later than August 29, 1986.

Mr. BENNETT. Yes, sir. That was not in my region, but it was common knowledge throughout all the regions that this had been done. As I remember, there were a large number of cases that had run the statute. I don't remember the exact number.

The CHAIRMAN. Were your superiors aware at that time of the problems in Los Angeles?

Mr. BENNETT. I don't know how they couldn't have been. The whole headquarters was aware of it.

The CHAIRMAN. Headquarters was aware of it?

Mr. BENNETT. Certainly. Yes, sir.

The CHAIRMAN. Well, also before you, Mr. Bennett, is a memo from Lynn Bruner, Director of the St. Louis office, to you, dated September 16, 1986. Ms. Bruner states:

"Age cases will be identified and flagged in the computer so that we can notify the charging party before the lapse of the 2-year statute of limitation. However, these cases will also be placed in the pending backlog."

READERS FILE
SEP 16 1986

MEMORANDUM

TO: Joseph P. Bennett, Director
Region II Programs

FROM: Lynn Bruner
District Director

SUBJECT: Kansas City Area Office

Upon my assignment to the St. Louis District Office, I received a briefing from your office regarding the operation of the District. A Regional audit had been conducted in February 1986, which identified serious deficiencies in the management of the Kansas City Office, as well as in the quality of case closures. A follow-up audit was conducted by Ralph Soto and Truman Harris on August 21 through 25, 1986, and although I have not yet received a written report of their findings, they did advise me that conditions appeared to be the same as those reflected in their February audit.

I have reviewed the overall management approach in place in Kansas City, and have decided to implement some changes which I believe will help to correct the problems which have been identified by your office. These changes include a redirection of Kansas City management's philosophy in relation to case processing; changes in personnel and management accountability systems; and changes in staff assignments.

I. STAFFING

A. Intake

The projected Kansas City intake for FY86 is approximately 1823 charges. However, of these, 180 were against the same Respondent. Thus, absent these charges, the intake will be around 1645 charges, which is somewhat higher than FY 85. There has been a significant increase in intake during July and August. We cannot know whether this trend will continue, but for purposes of projecting FY 87 intake, we will assume the same intake as in FY 86 of approximately 1650 cases.

The present Intake staff in Kansas City consists of three assigned EOS's: One GS-5, and two GS-9's. One of the GS-9's, Ms. Marjorie Jackson has been on extended sick leave since March 19, 1985, and the unit has been operating with two full-time EOS's, using RCP/ECP EOS's as backup. Total staff time committed to Intake has been approximately the equivalent of three EOS's. Since Ms. Jackson is severely ill, it is unknown when she will return to work, or whether her doctor will allow her to work full-time when she does return.

There is no Intake Supervisor, and the unit has been supervised by Cliff Hill, who also supervises the only Extended unit in the office.

At three EOS's, the average intake per EOS is 550 charges! This is well above 350, which is the highest processing assumption for charge intake that has ever been officially imposed, and far above the 270 PA which was in the GPAD's back in the days of production standards. Moreover, until July 1986, Intake was processing a large number of 706 charges. Through June 1986, they processed 756 such charges.

In order to keep up with their workload, the Intake EOS's and back-up EOS's were instructed to keep their intake interviews very brief and to the point, and to take minimal notes. As a result, most Intake files include only one page of notes, and the notes usually contain no more information than the charge itself. Deficiencies in charge intake were noted in the Regional audit.

To remedy this situation, I have detailed two RCP EOS's to the Intake Unit for a period not to exceed 120 days. The Union has been notified and all other necessary action taken. These individuals are Anita Hawkins GS-7, and JoAnn Jackson, GS-5.

With these details, the average intake per EOS will be approximately 413 each, which is still very high. However, it represents a significant improvement, and should allow the EOS's to slow down a bit, and improve the quality of the charges.

To assist further in improving our charge quality, I am asking John Myers, RCP Supervisor GS-13, to serve as supervisor of the Intake Unit on a temporary basis. (This will be handled so as not to affect his grade level.) In addition, James Neely has agreed to provide training in Interviewing Techniques to the Kansas City Intake staff.

I realize that the above reassignments are temporary in nature, and therefore, do not provide a permanent solution to the staffing problem. However, these are the only actions within my scope of authority, which I believe will help to relieve the situation.

Any more permanent solution to our staffing problem must be approved at your level. Accordingly, I have enumerated below the various options which I see as being available to higher-level management, along with my recommendation as to the most desirable option.

1. Allocate two additional Intake EOS positions to the Kansas City Office, and allow us to fill the existing supervisory position.

I see this as being the most desirable solution, since it would place the Kansas City office on a par with other districts by more nearly matching staffing with workload.

To illustrate, if two new slots are provided as of October 1, 1986, we will start the FY with four EOS's. If Ms. Jackson does not return, this will mean an average intake of 413 charges per EOS. If Ms. Jackson does return, this will still mean an average intake of 330 charges per EOS. Since half the EOS's, and the supervisor would be new to the job, the 330 figure is much more reasonable.

2. Change the PD of the Extended Supervisor to include supervision of the Intake Unit, and increase his processing assumptions to the level of 550 charges per Intake EOS.

I do not recommend this approach for several reasons:

a. The permanent assignment of GS-11 duties to the GS-13 supervisor may erode his grade level.

b. To require a supervisor to supervise more than one functional area places him at a competitive disadvantage as compared to other GS-13 supervisors.

c. A processing assumption of 550 charges per EOS seems outrageously high as compared to other offices and places Kansas City and District management at a disadvantage.

d. A processing assumption of 550 charges per EOS would lead to quality problems, as noted in Region's audits of February and August 1986.

3. Change the quality standards for Intake of charges to allow more quality problems to exist in Kansas City (given the high intake per EOS) than is allowable in offices with a lower charge intake per EOS.

While this approach would certainly be fair to EOS's and to Local and District managers, I do not recommend it. The consequences of a high error rate in Intake can be quite damaging to the quality of subsequent processing, and ultimately to the mission of the Agency.

B. EXTENDED

The pending inventory in ECP as of July 31, 1986, was 163 charges. With three EOS's in the unit, each carried a workload of approximately 54 case--more than a year's work at the "Outstanding" level of production.

The expected EXT charge intake for FY 87 is approximately 240 charges, (15 percent of the expected charge intake). The expected pending inventory at the beginning of the FY 87 is approximately 180.

With three EOS's, the office has been unable to adequately process the extended workload, and as a consequence, some extended-type cases are being processed in RCP; some are in the unassigned backlog; and each Extended EOS is carrying too great a workload. Almost every extended case processed in Kansas City is already 300-days-old or more by the time the LOD is issued.

It is my belief that all ECP cases should be assigned and processed immediately upon intake, so that the evidence does not grow stale. Rapid processing of these cases is also critical to the success of our litigation program.

As can be seen from the above, the Extended inventory for FY 87 will consist of approximately 427 cases (180 pending plus 247 receipts). To process this inventory at the highly effective level of 45 cases per EOS, with a 4-month carry-over inventory, would require a total of seven EOS's.

To help alleviate this situation, I have instructed the Kansas City Office to immediately transfer the equivalent of one staff-year of work (45 cases) to the St. Louis Office. In addition, I have reassigned one RCP EOS to the Extended Unit, Mr. Stan Epstein.

Even with the addition of one EOS, and the transfer of one EOS's workload, the Extended Unit would still be understaffed for FY 87 by approximately two EOS's, assuming production at the Highly Effective level. In view of this situation, I am requesting that we be allowed to fill one of the two vacant Extended positions. (Stan has already filled one). This will allow us to process all the new charges received in Extended on a timely basis, and with only a few being transferred to St. Louis throughout FY 87.

In assigning one EOS to Extended, I have taken all the action which is available to me at the District level. Following are the options which I see as being available at your level, along with my comments as to the advisability of each:

a. Allow us to fill a vacant EOS positions in the Extended Unit, for a total of five EOS's.

This is the solution I recommend, since five EOS's are required to handle the existing workload in a timely manner, assuming current processing assumption.

b. Increase the Extended Supervisor's processing assumptions to the level of 72 per EOS per year. I do not recommend this approach, since I do not believe quality cause cases could be produced. This would adversely affect our litigation program.

c. Abandon the "Extended" approach on 5 percent of the Extended inventory, and process them as RCP cases.

I do not recommend this approach since it would not represent appropriate handling. In addition, we would not be able to use these cases in meeting our litigation goals. This would also increase our RCP backlog.

C. RAPID CHARGE PROCESS (RCP)

The projected receipts in RCP for FY 87 are 1400 and the projected pending inventory as of the beginning of Fiscal Year 87 is 1640, with approximately 440 of these assigned.

As of August 30, 1986, there were nine EOS's assigned to RCP. As of September 3, following the temporary and permanent reassignments discussed above, there are 6 EOS's assigned to RCP. These EOS's are all being supervised by one Supervisory EOS, Lois Douglas.

To process the 1640 charges in RCP in FY 87 (1400 receipts, 400 assigned), the Kansas City Office would need a total of 11.8 EOS's with all of them producing at the Highly Effective level of 102 cases each, and with a carry-over inventory of 36 cases each. With all EOS's working at the "meets" level of 85 cases per EOS, and with a carry-over inventory of 36, we would need 13.5 EOS's.

Assuming my request for two additional EOS's in Intake is granted, the two RCP EOS's who are now temporarily detailed to Intake, can be returned to the RCP function for a total of eight RCP EOS's.

Even though it may be unrealistic to assume that all EOS's will work at the Highly Effective level, and particularly trainees, I am willing to take the risk that we would be able to achieve these results through the use of innovative management techniques. Accordingly, I am requesting that we be allowed to fill the three vacant positions currently existing in RCP, and that one additional EOS position be assigned, for a total of 12 RCP EOS's.

It is noted that even with twelve EOS's, the Kansas City Office will not be able to even touch the 1200 unassigned cases which will be pending as of October 1, 1986. To completely process this workload within a year's period, we would need another 11.7 EOS's, all working at the Highly Effective level of 102 each. We would also need additional supervisors.

However, it is impractical to staff up for only a year in order to handle the total FY 87 workload of 3040 (1200 pending unassigned, plus 440 assigned, plus 1400 receipts). I believe a better solution would be to transfer the 1200 cases to other offices for processing. I am aware that there are offices in the Commission which are severely over-staffed. Presumably, these offices would welcome the addition to their workload.

If it is impossible to transfer the pending cases, then perhaps we could be allowed to hire temporary EOS's (NTE 1 year) in order to handle some or all of the 1200 cases. I note, however, that the transfer of these pending cases would be a more desirable solution.

It should be emphasized that the Kansas City Office has used innovative approaches in an effort to control its enormous workload, and when adjustments are made for the time spent by RCP EOS's for assisting in Intake, for processing Extended-type charges, for answering status calls on the unassigned backlog, for preparing RFI's on unassigned cases, and for other special projects, they are already producing at or above the "outstanding" level.[1/] However, this high production has been accompanied by an unacceptably high error rate in charge closures, as determined by Region's audit.

Again, I have taken all steps related to staffing which are available to me at the District level, and which I believe will achieve the desired result of allowing us to continue processing at least at the Highly Effective level, and at the same time, improve the quality of our case closures. I do not believe it would be possible to keep the level of productivity above the "Outstanding" level at this time, considering all factors at play in the office. Moreover, I assume that the processing assumptions represent a dynamic tension between quantity and quality which cannot be pushed beyond a certain point.

The options which I perceive to be available at your level are as follows:

1. Increase the RCP staff by four permanent EOS's and transfer 1200 cases to other offices for processing.

   This is the solution I recommend, since it will allow Kansas City to complete the FY 87 receipts on a timely basis, and will allow other offices to complete the pending inventory on a timely basis. Other offices could be granted waivers on all cases which were over 300-days-old upon receipt.

2. Increase the RCP staff by adding four permanent EOS's, 12 temporary EOS's, and two temporary supervisors (NTE 1 year).

   I do not recommend this solution, since training time is a problem, and since major transitions usually create personnel problems.

3. Increase the processing assumptions of Kansas City management to a level of 470 charges per EOS per year through FY 87, then to 230 per year thereafter.

   I do not recommend this solution for reasons outlined in Item No. A.2 above.

4. Increase the allowable error rate so that productivity can be increased to a level that would reduce the backlog.

   I do not recommend this solution for reasons outlined in A.3 above.

5. Allow the RCP backlog of 1200 cases to grow to 1900 by October 1, 1987, and increase the percentage of allowable 300 day old cases to 100 percent, since within a month or two, all cases in Kansas City RCP will be over 300 days old upon assignment.

1/ Unfortunately, the staff availability figures on the 396 staffing charts were not adjusted to reflect the manner in which staff were being utilized.

I do not recommend this solution. An inventory of this size creates numerous management and processing problems, as discussed above.

II CASE MANAGEMENT

A. Charge Processing Identification

Since the manner in which a charge is processed (i.e., ECP, RCP, ELI) determines the resource investment in that case, I believe it is essential for the top management officials in an office to determine processing. In line with this objective, I have instituted a procedure in Kansas City whereby Joe Doherty will review each charge as it is taken and will determine how the charge is to be processed. It should be noted that his input is confined to resource-related issues. The supervisor is still responsible for the technical sufficiency of the investigation and closure.

Since a large backlog of unassigned RCP cases already exists, it is unlikely that any of the new RCP charges will be directed to the RCP Unit for assignment under present conditions. Those RCP cases which cannot be assigned for the foreseeable future will be added to the backlog.

Each RCP EOS presently carries an average of 60 cases in their workload. This is approximately 7 months of work at the Highly Effective level of production. Thus, it will be around 3 months before the present EOS staff will need new assignments. Our goal is to keep the average workload at approximately 35 cases, with a maximum of 40, except in unusual circumstances.

Since February 1986, the office has had the practice of sending out RFI's on all cases, irrespective of whether the case could be assigned. This has led to the existence of a large number of unassigned cases with RFI responses already in the file. There are approximately 860 cases in this category.

If my request to have 1200 cases transferred to other offices is granted, we could include in that group at least 500 which already have RFI responses in the file. This should sweeten the take a bit for the receiving office.

If my request is not granted, then we will draw from this supply of cases for any new RCP assignments. It should be noted, however, that unless the transfer is made, there will be enough charges in Kansas City as of October 1, 1986 to keep the present staff of six EOS's busy at the Highly Effective level of production for the next 25 months. At that rate, the typical charge received after October 1, 1986 would be 690 days old upon assignment.

I cannot stress enough the need for expeditious action at the Headquarters level to bring the Kansas City workload within manageable proportions. As discussed above, I believe these actions should be twofold:

1. Increase our Intake and EOS staff effective October 1, 1986.

2. Transfer 1200 charges to other offices for processing, effective October 1, 1986.

In the meantime, we will continue to review and stratify the charges for the most appropriate handling. Joe will use the following categories. The entire inventory will be entered in the PCXT and tracked as required:

(1) RCP

a. Routine RCP cases will be placed in the pending backlog.

b. RCP cases requiring TRO action will be identified, and discussed with Legal.

c. RCP cases that can be closed with little or no further action will be identified and closed immediately.

d. Age cases will be identified and flagged in the computer so that we can notify the CP before the lapse of the 2-year Statute of Limitations. However, these cases will also be placed in the pending backlog.

(2) ECP

a. All ECP cases received will be assigned immediately, up to a limit of 30 cases per EOS.

b. When the workload exceeds that which can be assigned, the excess will be forwarded to St. Louis for as long as possible.

c. All "possible ELI" charges will be sent immediately to THC for review.

d. All Extended cases requiring TRO action will be discussed with Legal.

B. Charge Processing - Quality/Quantity

(1) Supervision

The RCP and ECP Supervisors are primarily responsible for the technical sufficiency of cases assigned to their units. The RCP Supervisor will have six EOS's in her unit until an Intake Supervisor is selected, which is a heavy load. However, she will have the assistance of a GS-12. The ECP Supervisor will have four EOS's (two GS-12's and two GS-11's).

With the two additional EOS's assigned to Intake, it is hoped that the RCP and ECP EOS's will not be called upon as often to take charges. I also believe it is necessary to relieve the supervisors of as many additional duties as possible, so that they can spend more time directing and training their staff.

In your memorandum of January 30, 1986, you suggested that the supervisors be assigned to review responses to RFI's and complete the processing of cases, as a mechanism for controlling the growth of the inventory. The office has been doing this for some time now, although both EOS's and supervisors have participated. I fear that we will not be able to continue this practice much longer. The procedure is fruitful only where a case can be completed without additional evidence being secured, and even then, there is still a considerable amount of work to be completed. PDI's must be conducted, files assembled, IM's prepared and closure documents issued. All this work takes time, and interferes with the supervisor's ability to oversee the work in their unit and as a consequence, makes it difficult to properly evaluate their performance as supervisors. When the work is performed by EOS's, it simply overloads them.

As stated above, there are already 860 unassigned cases on which RFI's have been issued. There is simply no way the supervisors can process these cases and still be expected to perform their supervisory functions at an acceptable level. However, the Extended Supervisor will continue this function if time allows. With six EOS's, the RCP Supervisor will not have time to complete and close cases.

I believe you will find that most of the elements of your recommendations are present in the stratification approach described above. I should also point out that Joe is presently in the process of stratifying the backlog, as well as new receipts, which will have some of the same results anticipated in the above-referenced recommendations.

The growth of the backlog is a serious concern which you and I share with the Kansas City staff. A large backlog not only promotes ageing of the cases, but by its very existence, creates additional work which must be absorbed by supervisors, EOS's, and clericals. For example, numerous calls and letters concerning status are received from CP's, as well as from congressional representatives. Responding to these inquiries is time consuming, and is, in reality, nonproductive work.

In summary, my overall strategy for improving supervision is as follows:

(a) Re-emphasize Agency policy concerning quality and quantity of production.

(b) Conduct re-training of supervisors in area of burdens of proof and comparative evidence, as discussed below.

(c) Relieve supervisors of as many extra duties as possible so they will have more time to work with and train their staff, thereby improving quality of case processing.

(d) Increase the amount of time spent by supervisors with EOS's in preparing IP's thereby improving quality of case processing.

(e) Improve case tracking and case management systems and practices used by supervisors, as discussed below.

(2) Investigative Plans

The plan identified by Region has been in use since February 1986. However, supervisors will begin to work closer with their EOS's in designing their plans so that they become a more meaningful part of the investigation.

(3) Workplans

Supervisors will conduct monthly meetings with their EOS's to review the progress of each, and to establish new time frames as appropriate.

The EOS workplan will include instructions and time frames for each phase of the investigation, and EOS's will be measured in accordance with their ability to meet the plan.

Supervisors will be responsible for assigning and monitoring time frames, and for ensuring the quality development of each phase of the investigation.

(4) RFI's

As noted above, there are presently some 840 cases in-house which already contain RFI responses. It will, therefore, be unnecessary for Kansas City EOS's to prepare RFI's for some considerable period. When RFI's are prepared, they will be specifically designed for each individual case.

(5) Training

Following the February audit, the Regional Attorney conducted training in investigative techniques, with an emphasis on "burdens of proof." Further formal training of EOS's may be conducted in the future, if it should appear necessary. However, the changes discussed above will allow supervisors time to work more closely with their EOS's and to provide them with direct, on-the-job guidance and training. I believe OJT to be the best type of training available, if handled appropriately. Unit meetings by supervisors will include discussion of completed cases with participation by staff.

As stated above, training in interviewing will be provided to the Intake EOS's by the Regional Attorney. This training will also be given to the RCP and ECP EOS's

In addition to the above, John Nicholson will conduct a briefing of supervisors to re-emphasize the need to secure comparative evidence, and in the proper application of burdens of proof. These are areas identified as problems in your audit report.

As a further training tool, John will conduct monthly training sessions with Kansas City EOS's in which he will discuss one or two cases which he identified through his review of closures as either representing a good investigation, or having problems.

(6) Management Oversight

To ensure that the cases processed in Kansas City meet required quality standards, I have instructed Joe to forward all closures to St. Louis for review by his supervisor, John Nicholson, until further notice. I hope to be able to discontinue this practice within 3 months.

He will also send copies of the charges, along with a code, as outlined in Item No.II A.1 above. I may discontinue this practice after some period.

In addition, I require a monthly report from all managers concerning all areas of their management responsibility.

In summary, I believe that I have taken all appropriate actions within my authority. I will continue to monitor the production and management practices in the office to ensure the following:

1. Production at least at the Highly Effective level.

2. Development and implementation of innovative management systems designed to increase production to or above the outstanding level while enhancing quality.

3. Case processing which meets Agency quality standards.

4. Identification and processing of an adequate number of "litigation-worthy" cases.

5. Case management systems which promote the above results.

6. Personnel development and personnel accountability practices and systems which promote the above results.

7. Management accountability systems which accurately monitor results.

I know you will agree that the workload problem in Kansas City is accute, and I hope that after considering the above statistics related to staffing, you will agree that immediate action must be taken to secure additional staff, and transfer some of the workload.

Certainly, I am open to any recommendations you may have which would resolve the backlog or other problems in Kansas City. The options which are outlined above represent all that I perceive as being available to us at this time. However, you may well have additional solutions. I welcome your assistance.

Is this not another indication that age cases were either in danger of or actually were running the statute back in 1986?

Mr. BENNETT. Yes, it would be.

The CHAIRMAN. I suppose there could have been some earlier, too, than 1986?

Mr. BENNETT. The problem? I am sure that the problem could have existed before then, because that particular office we are talking about had been seriously understaffed for a number of years.

The CHAIRMAN. Well, assuming that you and other regional directors met from time to time with Chairman Thomas, did you not inform him of this problem in 1986?

Mr. BENNETT. The regional directors did not meet with Chairman Thomas.

The CHAIRMAN. Oh, you didn't—you don't meet with him? Regional directors do not meet with Chairman Thomas?

Mr. BENNETT. Not when I was there we did not.

The CHAIRMAN. Well, to your knowledge—perhaps Chairman Thomas really wasn't informed of this problem at that time. Would you know from your own knowledge?

Mr. BENNETT. I don't know. I can't answer that. Certainly, the level of organization above me was aware of it.

The CHAIRMAN. In your deposition of June 13, you stated that the EEOC was driven by numbers, that volume was more important than quality. Would you explain just what you mean by that? What do you mean by numbers?

Mr. BENNETT. Oh, the whole system of performance rating was largely one of meeting certain numeric kinds of targets. If those targets were met, as a general rule, the person got a good evaluation. If they weren't met, as a general rule, they didn't get a good evaluation.

The CHAIRMAN. You mean, if just so many cases were disposed of you got a good evaluation?

Mr. BENNETT. Well, cases closed, inventory reduced, hearings held, cases filed in court—all those were numeric kinds of targets.

The CHAIRMAN. Who did this? Who gave the evaluation? Where did they come from? Did you do it?

Mr. BENNETT. The regional directors, in conjunction with the program director and, to some extent, with influence from the Chairman, were the ones that gave the evaluations.

The CHAIRMAN. Well, did you approve of it?

Mr. BENNETT. Did I approve of that system?

The CHAIRMAN. Approve of it, yes.

Mr. BENNETT. I didn't approve of it. I was not the one that published or made up the standards.

The CHAIRMAN. You just carried it out.

Mr. BENNETT. Yes, sir, that is correct.

The CHAIRMAN. So, 40 percent of the cases, I am told, throughout the country are handled under contract with other groups. Was that true in your region?

Mr. BENNETT. With State and local governments. That is correct. Those are rough numbers, but that would be about the percentage.

The CHAIRMAN. And would it be 40 percent of the Age Discrimination in Employment Act cases?

Mr. BENNETT. No, I would think there would be fewer than that, because not all State and local agencies have contracts to process age complaints.

The CHAIRMAN. All right. Thank you very much, Mr. Bennett. I think we should now proceed to Ms. Bruner, Director of the St. Louis District.

Ms. Bruner, I believe the documents before you indicate that you sent clear warnings about this problem to headquarters beginning in February 1987, did you not?

February 13, 1987

MEMORANDUM

To: James Troy, Director
Office of Program Operations

From: S/ Lynn Bruner
District Director

Subject: Request by Kansas Commission on Civil Rights

Enclosed is a letter which I recently received from Joanne Hurst, Executive Director, of the Kansas Commission on Civil Rights (KCCR) They are seeking to propose legislation aimed at bringing their age law into line with EEOC requirements so they will be in a position to enter into a contract for processing of age cases. They have attached a copy of the proposed legislation, and are asking for a legal opinion as to whether such legislation would correct the deficiencies in existing law. I am requesting Legal Counsel in Washington to review the matter and issue an opinion.

Joanne has also asked whether EEOC would be interested in entering into an age contract with the KCCR, assuming the statute could be corrected. This is a question which I cannot answer, but I can say for your benefit, that if it is at all possible to contract with Kansas for processing of age cases, I would encourage that we do so. As you know, we have a serious backlog problem in Kansas City which is most glaringly problematic when it comes to age cases. We have a very large number of age cases which are approaching the 2-year statute of limitations. Any relief we could receive from the KCCR's processing of these cases would be most welcome. Indeed, I would encourage us to enter into as large a contract with them as possible.

It is my hope that you will be able to provide Joanne with some of the answers to the questions posed in this letter in our meeting of February 23. If you need additional information from me, please give me a call.

Enclosure

cc:
Joseph P. Bennett
Director, Region II

mailed DHL 2-16-87

March 24, 1987

MEMORANDUM

To: James H. Troy, Director
Office of Program Operations

From: Lynn Bruner
District Director

Subject: Upward Modification of FY87 Contract for
Kansas Commission on Civil Rights

Over the years, the Kansas Commission has proven to be one of the most viable and productive 706 organizations in the country. This year, under the direction of Joanne Hurst, they are exceeding their usual pace and will have completed their entire contract of 625 cases by the end of March.

I view this situation as an exciting opportunity for the St. Louis District, because Joanne Hurst has agreed that if she receives a substantial upward modification of her contract for this fiscal year, she will process cases from the inventory of our Kansas City EEOC Area Office.

As you know, the Kansas City Office has been dramatically understaffed for the last several years, and although a number of staff has recently been allocated to Kansas City, none has yet been brought on board, and it will likely be the end of the fiscal year before all hiring is completed. We presently have approximately 1600 cases which are backlogged, and the backlog is growing at the rate of 460 cases per year. I desperately need assistance in helping eliminate this backlog. Some discussion has taken place about transferring a number of cases to other EEOC offices, but the number discussed is far less than the 1600 presently requiring attention.

Ms. Hurst believes that her agency can complete an additional 400 cases from the Kansas City office if upward modification is approved rapidly. I am therefore requesting that special consideration be given to this situation, and that this request be handled on a priority basis, rather than waiting for the normal upward modification process to occur. As you know, time is of the essence in the processing of cases, and it is critical that approval be granted so that these cases can be received and completed before the end of the fiscal year.

I realize that there are numerous contingencies which have to be taken into account prior to approving a request of this nature. However, I do believe that this request should be given priority consideration because of the fact that more than one interest would be served if the contract is increased. Not only would the State benefit from the increase in the contract, but the St. Louis District Office would benefit as well, by being able to have 400 of its cases handled expeditiously. Perhaps most importantly, however, is the fact that 400 Charging Parties would be served far more promptly under this arrangement than would otherwise be possible.

I would appreciate it if you would make every effort possible to approve this upward modification. Please let me know if you need additional information.

March 26, 1987

MEMORANDUM

To: Jackie Shelton, Acting Director
Region II

From: Lynn Bruner
District Director

Subject: Transfer of Kansas City Area Office's Cases

It is my understanding that agreement was reached between Jim Troy and Joe Bennett that some portion of the pending inventory in the Kansas City Area Office could be transferred to other offices in what used to be Region II. I would like to call this matter to your attention, and ask that whatever steps are necessary be taken to allow me to transfer as many of these cases as possible to other District offices.

As described in my memo to Mr. Troy concerning the increase in the charge processing contract for the Kansas Commission (copy attached), there are presently 1600 cases backlogged in the Kansas City Area Office at this time. What I did not indicate, in my previous memo, was the situation with which we are faced in the Age jurisdiction. Because of the severe backlogging, we are running the statute of limitation on a large number of Age cases, and in some situations, simply will be unable to process them prior to the expiration of the two year statute of limitations.

We have made every effort to assign Age cases as quickly as possible to avoid this situation. However, I was reluctant to instruct the Kansas City Area Office to assign Age cases on a totally disproportionate basis.

To illustrate, we presently have a total of 148 Age cases on which we will have exceeded the statute of limitations before they can be assigned, given our present rate of assignment, unless I instruct the Kansas City Area Office to assign these cases out of sequence. This is roughly the equivalent of a 1 year workload for three EOS's under the new quality processing standards.[1]

I Am bringing this matter to your attention for two reasons: First, to illustrate the urgency of our need to transfer cases immediately to other District offices; and second, to request guidance from you as to whether we should assign Age cases on a priority basis, in order to avoid running the statute of limitations.

I believe that if headquarters is able to approve the upward modification of the Kansas City contract, and we are able to transfer five or six hundred additional cases to other offices, we would be able to handle the Age statute problem on the remaining cases.

I would sincerely appreciate it if you could expedite a decision concerning the transfer of these charges. If transfer is not possible, I will need advice from you as to how to handle this Age statute problem.

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[1] While I have not been advised of the processing assumptions being used for staffing under the new quality procedures outlined in my SCS Agreement, and the upcoming no cause charge appeal procedure, I believe that it is safe to project that we will not be able to produce cases at the required level of quality at a rate which would exceed 45 per EOS.

Ms. BRUNER. Yes, I did.

The CHAIRMAN. Your memo to headquarters dated February 13, 1987 states, in part, "As you know, we have a serious backlog problem in Kansas City. We have a very large number of age cases which are approaching the 2-year statute of limitations."

On March 24, you wrote to headquarters in the same year, 1987, "I desperately need assistance in helping to eliminate this backlog."

You do recall those memos, do you not, Ms. Bruner?

Ms. BRUNER. Yes, sir, I do.

The CHAIRMAN. Then, again, on March 26, "We are running the statute of limitations on a large number of age cases and, in some situations, simply will be unable to process them prior to the expiration prior to the 2-year statute of limitations. I am bringing this matter to your attention for two reasons: first, to illustrate the urgency of our need to transfer cases immediately to other district offices and, second, to request guidance from you as to whether we should assign age cases on a priority basis in order to avoid running the statute of limitations."

Now that is the end of your statement, your quote in this statement, Ms. Bruner. Why did you find it necessary to ask for this guidance? Did you receive any response from headquarters also? What is the reason for all of that?

Ms. BRUNER. For asking for that?

The CHAIRMAN. Yes.

Ms. BRUNER. Well, I have been with the Commission for quite a long time, and we have never prioritized one statute over another. In fact, we have always been told that we have an obligation to vigorously enforce all the statutes.

When I got to the St. Louis district, we had a 2-year backlog there, and about 30 percent of those cases are age. I was simply unable to assign those cases, to assign and complete all the age cases without totally ignoring the rest of the cases.

It was extremely difficult for me to assign all of those when I knew that I had race and sex charges sitting in there that had been there for over a year and a half, a lot of them, and I didn't feel that the right way to resolve the problem was to prioritize the cases. I felt that the right way to resolve the problem was for the district to have adequate resources so that we could handle the work load.

So, I asked for the resources. I told them what my situation was, that I was reluctant to prioritize, and asked for advice.

The CHAIRMAN. You said you had been with the Commission a long time. How long have you been with the Commission?

Ms. BRUNER. Approximately 16 years in various capacities, not as a director.

The CHAIRMAN. Was this soon after you were named Director at St. Louis?

Ms. BRUNER. Yes, sir. I became the Director in St. Louis in August 1986, and I did the review of our Kansas City office which was the most overworked and understaffed, if you will, of the two

immediately upon my arrival. That would have been in September, and that was the memo that was referred to by Mr. Bennett.

The CHAIRMAN. Well, what I referred to was in March 1987, a little over a year ago. You asked for some guidance from headquarters. What do you mean by headquarters?

Ms. BRUNER. Well, the field people or the people that I report to.

The CHAIRMAN. Who is that?

Ms. BRUNER. OPO, Office of Program Operations.

The CHAIRMAN. Here in Washington?

Ms. BRUNER. Yes, sir.

The CHAIRMAN. And what was the response?

Ms. BRUNER. I did not receive a response to those memos.

The CHAIRMAN. None?

Ms. BRUNER. Not directly, no, I did not.

The CHAIRMAN. Well, let's see, you are a director of the St. Louis office. Wouldn't they always respond to your inquiries?

Ms. BRUNER. Well, they didn't to the March memo. They did respond in the sense of providing additional resources to the district, although it didn't come until about 7 or 8 months after I had made the request.

The CHAIRMAN. What month would that have been?

Ms. BRUNER. I had asked for 1,200 cases to be transferred out. We got approval for 800 cases to be transferred out. I believe it was in July, and we got them out the first of August.

The CHAIRMAN. In July?

Ms. BRUNER. Yes, sir. This was the request——

The CHAIRMAN. That is only about 4 months, isn't it? Or 5 months?

Ms. BRUNER. Except that I had made the original request in the September memo.

The CHAIRMAN. Oh, I see.

Well, what happened after that? You got some cases transferred out in July. What did you do, let's say, in August? Did you say that you—you had asked for guidance on whether you ought to prioritize.

Ms. BRUNER. Right.

The CHAIRMAN. But you never got guidance on that?

Ms. BRUNER. No, but the subject did come up in August, because we were transferring some cases to New Orleans, and in those transfers were some cases that were running the statute. So, I was asked why that was the case, and then I explained it again and then sent a copy of my March memo up to them.

The CHAIRMAN. Well, what did you do? And tell me—because we have to understand this. Remember, we don't know all these procedures that you do routinely or did in this case. When you say the statute was running, how close was the statute of limitations on some cases transferred?

Ms. BRUNER. Well, I think in some cases, some had already expired.

The CHAIRMAN. Some had already expired?

Ms. BRUNER. Yes, sir. I believe that is true.

The CHAIRMAN. Isn't the procedure—do I understand the procedure correctly that each claimant is to be notified at least 60 days

ahead of the expiration of the statute of limitations expiring? Is that correct?

Ms. BRUNER. Well, that was certainly the procedure in the St. Louis district.

The CHAIRMAN. That was the procedure.

Ms. BRUNER. Yes, sir. We routinely notified people at least 90 days, I think 120 in some cases.

The CHAIRMAN. The 60 isn't correct, then; 90 to 120 days?

Ms. BRUNER. Well, the 60 days was established more recently, I believe in January, commissionwide, but in the St. Louis district, we had already had that practice in place ever since I was there.

The CHAIRMAN. Well, Mr. Bennett, the St. Louis office was in your region, was it not, one of the district offices you were in charge of?

Mr. BENNETT. That is correct.

The CHAIRMAN. Prior to Ms. Bruner's being assigned there in August 1986, was there a problem in that office?

Mr. BENNETT. There were problems in the office in the sense that the Kansas City office was understaffed the whole time that I worked for EEOC and continually got worse. I was like a broken record trying to get additional resources specifically for that office.

The CHAIRMAN. Would you tell us what relationship the Kansas City office has to the St. Louis office?

Mr. BENNETT. Kansas City is an area office under the direction of St. Louis.

The CHAIRMAN. I see. Ms. Bruner, am I to assume that you never got a response on whether you should prioritize any cases? I asked that before, and you said it came up in August. Was it a response from headquarters, or did it just come up because some cases were being transferred?

Ms. BRUNER. No, the subject came up of why the cases were running the statute, and I again explained, as I had before, why they were running the statute.

The CHAIRMAN. When you say the subject came up, what do you mean? Somebody from Washington asked you?

Ms. BRUNER. Yes, sir.

The CHAIRMAN. They asked you. Who was that?

Ms. BRUNER. That was my regional director, Ms. Shelton.

The CHAIRMAN. It was whom?

Ms. BRUNER. My regional director, Ms. Shelton.

The CHAIRMAN. Your regional director?

Ms. BRUNER. Yes, sir.

The CHAIRMAN. I thought Mr. Bennett—were you gone by then, Mr. Bennett?

Mr. BENNETT. I left in March 1987.

The CHAIRMAN. I see. So, there was a new regional director.

Ms. BRUNER. Yes, sir.

The CHAIRMAN. Well, would you call that headquarters?

Ms. BRUNER. Yes, sir.

The CHAIRMAN. The regional director is in headquarters.

Ms. BRUNER. Yes.

The CHAIRMAN. Ms. Bruner, there were several reports in news media earlier this year about the EEOC's handing out poor performance ratings to directors of field offices where ADEA cases exceeded the statute of limitations. Did you receive a poor rating?

EEOC CHAIRMAN VOWS ACTION AGAINST DELAYED HANDLING OF AGE BIAS COMPLAINTS

From the Daily Labor Report, 12-23-87

Management problems at a handful of EEOC's 24 district offices have interfered with the prompt handling of age discrimination charges, resulting in the agency's failure to process nearly 900 complaints in time to meet the Age Discrimination in Employment Act's two-year statute of limitations to pursue the cases in court.

Characterizing the situation as "totally inexcusable," the commission's chairman, Clarence Thomas, has vowed to take direct action against the half dozen district directors he holds responsible.

"This is the singularly most frustrating and distressing thing that's happened to me at the agency," he told BNA. "This is foreclosing people's rights and it's purely bad management."

Thomas said management problems in the field are widely scattered and bear no correlation to office size number of cases processed. Although he declined to identify the problem offices, other EEOC officials said that more than 100 late cases were pending in Dallas, St. Louis, Philadelphia, Los Angeles, Baltimore, and New York and a "substantial number" are pending in Birmingham, Ala. On the other end, Atlanta, San Francisco, and Chicago were among the offices with either none or few of such cases, they said.

Unlike Title VII of the 1964 Civil Rights Act, the age act includes a statute of limitations requiring suits to be filed within two years after the violation, or, in the case of a "willful violation," within three years. Because the "willful standard" has evolved over the past few years and now is not as easy to prove, prompt case-processing is essential, Thomas observed.

"When we first came to the agency, willful was a low standard. But the courts aren't routinely accepting these willful cases and it has become an issue," he observed. "The problem is our habits and practices haven't changed to comport with the law. There is no reason why these cases should go beyond two years."

The developing problem was first noticed by members of the five-member Commission when a new enforcement policy was approved three years ago (1984 DLR 177: D-1) and the panel began routinely reviewing all cases that failed conciliation, Thomas said. Last September, however, headquarters officials compiled figures for the first time and determined that close to 900 cases had passed the two-year statute of limitations without resolution. Applying the commission's "cause rate"—which amounts to about 5 percent of all charges filed with the agency—the number of potential cases that might be foreclosed from reaching court is probably only around 40—a particularly small number when compared with the agency's inventory of about 17,000 pending age bias cases.

But it's the principle that has Thomas angry.

"How do you go to someone whose rights have somehow not been vindicated and say I'm sorry," he asked rhetorically. "All you can do is be sure it never happens again and make sure the people who don't see a problem with it aren't leading your organization."

The chairman, who has declared personnel issues to be one of his major actions for the coming year, has already taken disciplinary steps against some of the offending district directors—seven of whom were given "minimally satisfactory" or "unsatisfactory" assessments during a recent personnel rating. He also addressed the issue in a sharply-worded Dec. 21 memo to field directors, in which he said that allowing a statute of limitation to lapse is "tantamount to a dereliction of duties" and promised "not [to] tolerate such mishandling of even one case . . . Accordingly, I expect each of you, if you have not already done so, to immediately develop and implement appropriate measures in your office to ensure that there is no recurrence of this distressing problem."

The chairman acknowledged frustration that the headquarters memorandum was necessary and that some of the district directors failed to address the issue independently.

"I assumed nobody would miss the statute of limitations, but it was an invalid assumption," he said. "It's embarrassing and inexcusable. There is no way to justify it."

But now, he said, "the fire's lit. We've been able to catch it and it's something that will be corrected next year."

EGION POST SD 1/10/88 ST LOUIS PO

Area Equal Employment Director Blames Head Office For Delays

By Tim Bryant
Of the Post-Dispatch Staff

The director of the Equal Employment Opportunity Commission's regional office here says the commission's chairman acted unfairly when he criticized a massive backlog of complaints of age discrimination.

The agency's headquarters took 11 months to act on her urgent requests for help, said the director of the St. Louis office, Lynn Y. Bruner.

She was reacting to comments by Clarence Thomas, the commission's chairman. He said in an interview published Friday in the Los Angeles Times that the agency's St. Louis office was among seven regional offices that had failed to act on large numbers of age-discrimination grievances.

No action had been taken for more than two years on a total of 900 cases, Thomas said.

The commission generally reviews complaints to determine whether lawsuits are viable. Most who lodge complaints wait for the agency's review before filing suits, but the deadline for beginning court actions is two years.

The director responded Friday night by saying, "I don't know where Chairman Thomas got his statistics. I have gone on record ... asking for assistance from our head office in order to process the backlog of cases which had developed prior to my arrival here in August 1986."

The month after her arrival, Bruner said, she asked for the transfer of 1,200 cases from the agency's branch office in Kansas City and 300 cases from St. Louis. She said she had wanted the cases sent to commission offices with smaller workloads. Bruner said she also had asked for 15 more employees.

"I pleaded with them to transfer the cases quickly," Bruner said. "I told them I had to have cases transferred, and I had to have staff."

Last August, Bruner said, the agency agreed to transfer 800 cases from Kansas City but none from St. Louis. Fourteen employees were added to the Kansas City office in July. None was sent to St. Louis.

The Kansas City office has 25 caseworkers; the St. Louis office has 23. Bruner said the region's two had a total of 120 employees and handle cases in Kansas, Missouri and southern Illinois.

"We still have more cases than people to process them," she said. "I'm making every effort that I can. Age cases are being assigned on a priority basis."

Bruner said age cases lapse two years from the time the discrimination is alleged to occur, not from the time when the case is filed with the commission.

"It gives a skewed picture when you say the lapsing of the complaint is the result of inactivity," she said. "It depends when they were filed."

Thomas said that he issued an internal memo last month that chastised 23 district directors for allowing the complaints to lapse. He said the delays were "absolutely inexcusable" and "tantamount to dereliction of duty."

In addition to St. Louis, he said, the primary offices responsible for delaying the complaints were New York, Los Angeles, Dallas, Baltimore, Philadelphia and Birmingham, Ala.

Thomas said he believed that some of the 900 complaints still can be settled favorably.

Bruner said the cases transferred from St. Louis and Kansas City dealt with various types of complaints handled by the commission. Age-discrimination cases account for about 30 percent of the caseload, she said.

Ms. BRUNER. Yes, sir, I did.

The CHAIRMAN. Did you think it was your fault?

Ms. BRUNER. No, sir, I didn't.

The CHAIRMAN. Now, tell us why you feel it was not your fault.

Ms. BRUNER. Well, in the rating, I was faulted for the statute running on age cases and for not prioritizing the age cases.

The CHAIRMAN. For not prioritizing?

Ms. BRUNER. Yes, sir.

The CHAIRMAN. Isn't that what you asked for, guidance on prioritizing?

Ms. BRUNER. Yes, sir, but I was told that I should not have had to ask for guidance on that point.

The CHAIRMAN. Oh, you should have done it automatically yourself.

Ms. BRUNER. Yes, sir.

The CHAIRMAN. Had you been trained not to prioritize?

Ms. BRUNER. There was nothing in our practice or procedure which said that we should prioritize one statute over another. We have always tried to vigorously enforce both.

The CHAIRMAN. Well, when you got this poor rating, had you had any hearing or any process or do you just get something in the mail that says you are not a very good employee, or how does that work?

Ms. BRUNER. No, I had not heard anything on the issue, not even a response to whether I should prioritize, until I got my rating.

The CHAIRMAN. Did you refer, after you got the rating, to your previous memos asking specifically for guidance on that point?

Ms. BRUNER. Yes, sir, I did.

The CHAIRMAN. What was the response?

Ms. BRUNER. The response was that I should not have had to ask the question, that I should have been able to do that on my own, and the fact that I had raised the issue of the work load—that that shouldn't have had anything to do with it.

The CHAIRMAN. Well, when did this rating come out?

Ms. BRUNER. I believe it was the second week of November.

The CHAIRMAN. And it was for the year?

Ms. BRUNER. Yes, sir.

The CHAIRMAN. All right. Who is Joanne Henry?

Ms. BRUNER. She is the Director of Personnel.

The CHAIRMAN. And she is located here in Washington?

Ms. BRUNER. Yes, sir.

The CHAIRMAN. And that is where your rating came from?

Ms. BRUNER. Yes, sir.

The CHAIRMAN. But you did respond and say well, after all, I did send in two memos asking for guidance. The answer you got was that you should have known.

Ms. BRUNER. Yes, sir.

The CHAIRMAN. All right. I have a memo here from the headquarters that is dated May 27, 1988, concerning data collection and issuance of claimant notices. Of course, this is referring to the requirement in the recent act we just passed, the Age Discrimination Claims Assistance Act—to notify all individuals whose ADEA charges in cases exceeded the two-year statute of limitations. On page 2 of this memo, it informs you as a field office director that

you will be required to make individual determinations on a case-by-case basis regarding whether further EEOC resolution activity is warranted, and then it says:

"General instructions regarding post-notice investigative activity will be forwarded to you shortly."

D #146
(turn to page 2)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MAY 27 1988

MEMORANDUM

TO: DISTRICT, AREA, & LOCAL DIRECTORS (ACTION)

FROM: Jim Troy, Director
Office of Program Operations

SUBJECT: AGE DISCRIMINATION CLAIMS ADJUSTMENT ACT - Data Collection and Issuance of Claimant Notices

Attached is the printout of ADEA charges from your workload which required notices to charging parties under subject act. OPO Headquarters staff is mailing the notices to those whose names and addresses are complete on this printout. Although this listing was developed from our best charge information sources, it is possible that some charges may not be reflected in our computer extracts. Charges in the workload during the period of our switch from CSRS to CDS come to mind. Therefore, to avoid the possibility that any charging parties who should receive our help are missed, you are to immediately complete, from your review of the printout, your files, and CDS output the following:

a. Determine by comparing the attached printout with your reports any ADEA charges that exceeded the statute of limitations which are not on the printout. Your CDS query should be all ADEA charges that were filed between January 1, 1984 and April 1, 1986 in which more than 729 days passed between date of violation and date of EEOC resolution. We have attached computer instructions which will enable you to extract the data from CDS.

b. Forward copies of the attached claimant letter and fact sheet to charging parties whose names do not appear on our printout. THE CLAIMANT LETTER AND FACT SHEET MUST BE MAILED TO CHARGING PARTIES NOT LATER THAN JUNE 6, 1988. You should provide my office with the list of charging party names, addresses, and charge numbers of those to whom you forwarded this information, by June 8, 1988.

As you review the attached printout, you may find a few addresses that appear to be incomplete. This means that the full address listing was not picked up on the diskette on which you provided the information from which we developed the printout. In those instances, you are expected to determine the correct address and forward the notices as in b. above by June 6.

On May 12, we sent you the package that was forwarded to the State and Local FEP Agencies advising them to provide notices to appropriate charging parties. We have been informed that some of the agencies cannot determine dates of EEOC resolution of ADEA charges that the FEPs initially processed. We have advised them to contact the District Office that administers their contracts and expect you to provide whatever assistance is required in a timely manner. The June 6 date also applies to the FEPA notices.

As you are already aware, you will be required to make individual determinations, on a case by case basis, regarding whether further EEOC resolution activity is warranted. Charging parties are being informed of this fact in the claimant letter. General instructions regarding post notice investigative activity will be forwarded to you shortly. In the meantime, if you are contacted by recipients of the notices, you should only begin to assemble information which can guide your identification of the last status of the charges and the availability of documentation pertaining thereto. You will have the instructions in time to make orderly decisions about subsequent charge processing.

It is absolutely essential that we notify all ADEA charging parties who brought timely charges to EEOC and whose charges exceeded the statute. Therefore, we fully realize that there may be some duplication since Headquarters staff, District staff, and FEP agencies may all be sending notices. In this instance, it is preferable for some charging parties to receive two notices than any charging party not to receive appropriate notification under this law.

You should contact your Field Management Director if any special arrangements are necessary (overtime, etc.) for you to complete the immediate notice actions. You should contact Hilda Rodriguez in my office or Doris Werwie of the Program Research staff at 634-7062 if additional information regarding the notice and notice procedures is necessary.

Attachments:
Computer Printout of ADEA Charging Parties
CDS Computer Instructions
ADCAA Claimant Letter
ADCAA Fact Sheet

cc: Jackie Shelton, FMP-West
Helen Walsh, Supervisory Program Analyst, FMP-East

Ms. Bruner, what I am asking is, has your office received any such instructions from headquarters on specifically what you are to do with the Claims Act cases?

Ms. BRUNER. No, sir, we have not as of this time.

The CHAIRMAN. You did receive the May 27 memo?

Ms. BRUNER. Yes, sir.

The CHAIRMAN. Let's see, this is June 22. So far, you haven't received those instructions though.

I am wondering, has your office begun to reopen or resume investigation on any of these cases in light of the fact that the clock has been running since April 7 on the 18 months provided for such activity? In other words, we extended it 18 months from the time the bill was signed into law, and that was April 7. Has your office begun to reopen or resume investigation on any of these cases?

Ms. BRUNER. No.

The CHAIRMAN. No? Why?

Ms. BRUNER. Well, we—first of all, we haven't received any response back from any of the people, but then I am still waiting for the guidance, basically.

The CHAIRMAN. You have to get response back from the individuals and then you have to get some instructions from here? Is that it?

Ms. BRUNER. Well, what I have done—what I did just a few days ago was to instruct my staff to start looking at those cases to see if there was anything in there that we would want to investigate further, and I was doing this based on the memo that was prepared by Richard Komer of our legal counsel in which there were speculations about how we might handle those.

The CHAIRMAN. Is that the same memo I was referring to?

Ms. BRUNER. It came out, I think, attached to that memo that you referred to.

The CHAIRMAN. Yes.

Ms. BRUNER. So, I am actually trying to anticipate what we might do and be ready.

The CHAIRMAN. We are now well into June, 2½ months have gone by out of the 18. It is necessary for you to start now, is it not?

Ms. BRUNER. Yes, I think it is time.

The CHAIRMAN. I am told that we are now in a vote, and we will stand in recess for 15 minutes so we can make that vote.

The committee is in recess.

[Recess taken.]

The CHAIRMAN. The committee will come to order.

Mr. Muse, you are the director of the Birmingham district now. You have quite a lengthy background with the Commission, about 15 years. Is that about right?

STATEMENT OF DONALD MUSE, DIRECTOR, BIRMINGHAM DISTRICT OFFICE, EEOC

Mr. MUSE. 22 years, sir.

The CHAIRMAN. 22 years?

Mr. MUSE. 22 years, yes, sir.

The CHAIRMAN. With the Commission?

Mr. MUSE. Yes, sir.

The CHAIRMAN. Well. I assume that as a field office director, you also received the May 27 memo from headquarters that Ms. Bruner spoke of.

Mr. MUSE. Yes, I did.

The CHAIRMAN. Did you receive any specific instruction on what to do with the Claims Act cases and have you begun to reopen or investigate any of them?

Mr. MUSE. Well, the memo itself contains instructions, Senator. The memo itself on the second page in the second paragraph indicates that, "general instructions regarding post-notice investigative activity will be forwarded to you shortly." The concluding sentence says, "You will have the instructions in time to make orderly decisions about subsequent charge processing," and nothing has been received since then.

The CHAIRMAN. What does shortly mean, then?

Mr. MUSE. I believe that, in view of all the things that have happened, Senator, that due deliberation should be taken before we formulate a policy on what exactly to do with those charges that are going to be reopened.

The CHAIRMAN. Say that again?

Mr. MUSE. I think the agency is being deliberate, very deliberate, in the manner in which they handle those charges where we are going to restore the rights of the charging parties. I think they are being necessarily deliberate in doing that.

The CHAIRMAN. You think it takes this much time and reasonably takes that much time? Is that correct?

Mr. MUSE. Yes, I do.

The CHAIRMAN. Am I correct in assuming that one of the reasons why these age cases were slipping through the cracks is because the Commission did not have a reliable and accurate way of tracking those thousands of cases?

Mr. MUSE. I believe that is a major contributing factor, sir. Yes, I do.

The CHAIRMAN. The only way to do it would be through a reliable computer system, would it not?

Mr. MUSE. No, I should explain to you some misconception. I should explain to you at this point some misconception about district directors and their performance standards.

Always, since 1980, a performance, a bottom line indicator, as they are referred to, of a district director is the percentage of charges over 300 days old, but charges are not separated by statute within those 300 days old. We have always had that goal. The goal for the last 4 years has been 4 percent of your work load must not exceed 300 days old in order for you to meet the requirements of your job.

So, the tracking may very well not have been on age charges alone but all charges. Any charge over 300 days old would have been in that percentage except charges targeted for litigation.

We tracked them in that manner. We didn't track them and say we are setting all the age charges aside. Most offices didn't. Some offices did track age cases because they were concerned about the statute of limitations.

Many charges that you take under the Age Act are not filed the first day of a violation when the 2 years becomes running. It may

be taken during the 17 months after the violation continued. We may have only 5 months to process it before the 2-year statute of limitation runs.

But under our performance standards that have been in effect for at least 8 years, we have a standard, a bottom line indicator, one of six, probably the most stressed one of the six is 300-day-old charges. What we would do with the computer system was, beginning after the second month of the fiscal year, go back and have a printout of all charges that would be 300 days old before the end of the fiscal year, and we would concentrate on resolving those charges within the percentage allowed by our performance standards.

The CHAIRMAN. Well, doesn't that allow, then, a lot of age cases that you get late—I realize that the statute of limitations doesn't begin when you get the case, when the claimant comes to you. But according to what you have just said, the 300 days—wouldn't that contribute to a lot of age cases to exceed the statute of limitations?

Mr. MUSE. It would not. In fact, the point I was making——

The CHAIRMAN. It would not?

Mr. MUSE. It would not. If you follow the 300-day-old cases, you would necessarily identify——

The CHAIRMAN. Well, in that example you gave, 17 months had already lapsed out of 24.

Mr. MUSE. That would be the exception rather than the rule, and I am saying if they came in at 17 months——

The CHAIRMAN. Okay, that is an exception.

Mr. MUSE. We have procedures for handling those to expedite them so that the 2-year statute of limitation doesn't run out.

The CHAIRMAN. Well, what are the procedures?

Mr. MUSE. The procedures are that you have to get on the case immediately and begin the investigation of it, and you have to notify the charging party that his rights will run out 60 days prior to that date.

The CHAIRMAN. How many months?

Mr. MUSE. In 60 days, 2 months.

The CHAIRMAN. But, generally speaking, do you try to shoot for 90 to 120 days as Ms. Bruner mentioned?

Mr. MUSE. I believe for bookkeeping purposes we set a definite time so that we can have a tickler, set a tickler file on it.

The CHAIRMAN. You served as chairman of a special commission task force which was a redesign work group for the computer system, CSRS, and I believe you started in 1984 on this special task force. Is that correct?

Mr. MUSE. Yes, sir, October 1984.

The CHAIRMAN. And your goal was to design a reliable, accurate, and user friendly computerized case tracking system to replace the old Complaint Statistical Reporting System. Is that right?

Mr. MUSE. Senator, the purpose for the task force that I was in charge of was to determine the users' requirements for the new system, determine from contacting all the district directors, all the headquarters people, State and local agencies and so forth what the requirement was for the users, the primary users of that. I actually didn't design the system. We only compiled the users' requirements

on what type of information, including Congressional committees, would require information from the system.

The CHAIRMAN. Well, what was the reason for—let's just put this in the record. Why did all this have to get started? Your other system, I am assuming, was a failure. Is that correct?

Mr. MUSE. It was a very, very abject failure. The old system called the Complaint Statistical Reporting System was a failure, yes, sir.

The CHAIRMAN. And you were in charge of this task force for 2 years. Is that correct?

Mr. MUSE. No, sir. I was on it for approximately 4 months. I actually went to headquarters from the Seattle district office.

The CHAIRMAN. For 4 months?

Mr. MUSE. Yes, sir.

The CHAIRMAN. And you gave your input during that 4 months?

Mr. MUSE. Yes. I had a committee—in this group, there were about eight people at the peak.

Senator HEINZ. Mr. Chairman?

The CHAIRMAN. Yes, Senator Heinz.

Senator HEINZ. There is something I would just like to be clear on.

I apologize for having missed part of the discussion. I had to go to two other committee hearings today, one markup in the Finance Committee and another hearing in the Banking Committee which I just returned from.

How many of the offices in your region, Mr. Bennett, had tickler systems on these ADEA cases? Let me ask Ms. Bruner, did you have a tickler system in the St. Louis district office on ADEA cases?

Ms. BRUNER. Yes, we did. We had a notice system in Kansas City so that we could get a printout that would show us the cases that were within the 120 days so we could send out the notice.

Senator HEINZ. Mr. Muse, you had a tickler system too?

Mr. MUSE. It was computerized, yes, sir.

Senator HEINZ. Mr. Gloria?

Mr. GLORIA. Yes, sir.

Senator HEINZ. Ms. Hannah?

Ms. HANNAH. I don't know.

Senator HEINZ. Oh, you are an investigator. That is right. And you are an investigator, too, Mr. Morrow.

And, Mr. Bennett, as a regional director, what requirements did you impose on your offices for running tickler systems?

Mr. BENNETT. To the best of my knowledge, all of them had some system such as that, even in reference to the one in Detroit. Detroit also had both an automated and a manual system.

Senator HEINZ. Now, how many age discrimination cases would be pending at any one time in, say, the St. Louis district office?

Ms. BRUNER. We have about 30 percent of our cases are age cases. I don't have my figures with me, but I believe we have a pending inventory right now of about 3,000 cases.

Senator HEINZ. Total cases?

Ms. BRUNER. Yes.

Senator HEINZ. So, 30 percent of those, about 1,000 of them, 900 of them, would be age cases?

Ms. BRUNER. Yes, sir.

Senator HEINZ. Mr. Muse, in Birmingham?

Mr. MUSE. A lesser percentage. Approximately 20 percent would be age cases in Birmingham. We have approximately 3,000 unresolved charges.

Senator HEINZ. So, you would have 600?

Mr. MUSE. Yes.

Senator HEINZ. And what about in Seattle when you were there?

Mr. MUSE. In Seattle, we run a much higher percentage of age cases in Seattle, because we were very prominent in age discrimination. I would say that the work load would be as high as 35 percent age cases.

Senator HEINZ. And how many cases all together?

Mr. MUSE. Less than 2,000, about 1,700.

Senator HEINZ. So, you would have had about a third of those, say, 600 age discrimination cases.

Mr. MUSE. Yes, sir.

Senator HEINZ. Mr. Gloria?

STATEMENT OF HERMILO GLORIA, DIRECTOR, PHOENIX DISTRICT OFFICE, EEOC

Mr. GLORIA. In our jurisdiction, age runs about 25 percent of the case load, and between the two offices that I oversee, we have approximately 2,500 charges a year. So, that would be 625 cases, normally, per year, although I don't think our backlog is that high. We are fairly current on age right now.

Senator HEINZ. Were age discrimination cases, generally speaking, handled by a group of people who just handled age discrimination cases, or were they just assigned willy-nilly?

Mr. MUSE. No, sir. At one time when we first took over jurisdiction for the Age Discrimination in Employment Act and EPA, we had separate units to do that, but we integrated the units approximately 5 years ago so that each investigator now investigates any one of the acts he is assigned to.

Senator HEINZ. Having missed some of your testimony, maybe I missed something. Is there an implication in any of the questions you have been asked or any of the answers to any of the questions you have been asked so far that the reason several thousand age discrimination cases had their statute of limitations expire on them—to what extent is that the fault of either the district offices or central office in Washington, DC, and why?

Mr. MUSE. My testimony is, sir, that a contributing factor to that would be the failure of the charge data system, the recordkeeping system to allow us to access the information to select out, to identify by age and all the other factors that a director needs. I am saying that is a contributing factor.

The other factor, I think, that Lynn Bruner has already spoken to is understaffing in some offices and overstaffing in other offices that has gone on for many years in the agency.

Senator HEINZ. Now, let me ask Ms. Bruner this. You have obviously been tracking your cases fairly well. You knew you had some problems, and, as I understand it, you wrote a memo to central office, was it?

Ms. BRUNER. Yes, sir.

Senator HEINZ. And you didn't get any response to your memo?

Ms. BRUNER. No, sir.

Senator HEINZ. Is that right?

Ms. BRUNER. No, sir.

Senator HEINZ. Did you have any other opportunities to follow up on your memo?

Ms. BRUNER. Yes, sir. I mean, I could have at any time, I suppose, raised it again, and I did continue to raise the understaffing.

Senator HEINZ. But you raised specifically, as I understand it, the issue of cases that were about to run the statute. Is that not correct?

Ms. BRUNER. Yes, I did.

Senator HEINZ. But having written that memo, as I understand it, you did not pursue that problem further at that point in time. Is that right?

Ms. BRUNER. No, I raised it again in August and, in fact, sent a copy of that memo in August.

Senator HEINZ. So, you raised it first in what, March 1987 and then August 1987?

Ms. BRUNER. I raised the question of prioritization, yes, then, and I raised it again in August.

Senator HEINZ. Now, at any point, did you ever talk to a real person?

Ms. BRUNER. What do you mean when you ask that question?

Senator HEINZ. Well, my staff write my memos all the time, and I tell them that that is nice, and if I had 23 district offices with people writing me memos and regional offices writing me memos and OMB and Congressmen writing me memos, you know, I am not quite sure that I would read every memo. That is why the good Lord gave us a voice box, I guess, in addition to digits.

The question I have for you is, do you not have monthly conference meetings, teleconference meetings?

Ms. BRUNER. Yes, we do.

Senator HEINZ. Did you ever raise the problem of statute of limitations running at those teleconferences?

Ms. BRUNER. I don't believe I specifically mentioned that at the conference, no, but I asked——

Senator HEINZ. Why wouldn't you, if it is an urgent issue, if the statute of limitations are about to run, if people are about to be denied their rights, why wouldn't you raise it at one of your monthly teleconferences with higher authority?

Ms. BRUNER. Well, I thought that I had raised it appropriately, and I——

Senator HEINZ. Why wouldn't you ask if they got the memo?

Ms. BRUNER. It simply didn't occur to me to do that. I assumed they got the memo. Later, when I found out that——

Senator HEINZ. Have you gotten every piece of mail that the U.S. Postal Service delivers?

Ms. BRUNER. Well, how would you know?

Senator HEINZ. That is exactly right, how would you know. I mean, I think we have all sent people communications by various means. I sent something by Federal Express once. Federal Express,

you know, they never lose anything. It is about 3 months later, and they are still trying to find it.

So, it seems to me that there was perhaps an opportunity to speak up if that was a serious problem.

Ms. BRUNER. Well, I did speak on the phone to Ms. Shelton in August about it when, as I stated earlier, there was a contact which arose when we were transferring cases to New Orleans. We were talking on the phone about it, and I raised it at that time. Certainly, in August, it was discussed.

Senator HEINZ. Had any action been taken to help you either in July or August by central office?

Ms. BRUNER. Yes. As I said, they had approved the transfer of 800 cases in August. I had requested 1200, and the 800 wasn't enough to put us in a situation where we could handle it, but it was better than nothing. I am certainly not knocking it.

Senator HEINZ. And you did get some additional slots filled, too?

Ms. BRUNER. Yes, sir, I did. I did get additional slots.

Senator HEINZ. And you got money to contract out for clerical help?

Ms. BRUNER. For clerical help, yes. All of those things take time to get results.

Senator HEINZ. Okay. All right, that is very helpful.

I have one other question. Mr. Muse, am I right that while you were head of the Seattle district office that you had some problems with age cases running the statute?

Mr. MUSE. No.

Senator HEINZ. You did have a tickler file in Seattle?

Mr. MUSE. We had a tickler file. We had a 300-day-old file and we had a tickler file on 2-year-old age cases, yes.

Senator HEINZ. Two-year-old cases? At that point——

Mr. MUSE. Well, that would be 2 years old. We set it at 22 months, sir.

Senator HEINZ. At 22 months. So, that would give you 2 months to do what you had to do.

Mr. MUSE. Yes.

Senator HEINZ. Now, you mentioned a minute ago that the recordkeeping system is not quite up to speed. Is that right?

Mr. MUSE. I think that perhaps would be an understatement, sir.

Senator HEINZ. Okay. I gather you were involved in helping design, at least at some point, improvements to the recordkeeping system. Can you give me the background of that?

Mr. MUSE. I was selected to come to headquarters with a group of seven other people, seven or eight other people, to determine the users' requirements, Senator, exactly what was necessary to have in a system from every standpoint, to determine all the uses the computer would have, what type of information would go in, and what type of information would come out.

We did that. It took 4 months, and we determined what the users' requirements were, and we issued a document to that effect, but it was only as far as the users' requirements were concerned. It didn't deal with other aspects like software and hardware.

Senator HEINZ. But what you specified was what you needed.

Mr. MUSE. Yes, sir.

Senator HEINZ. When everything was said and done, what happened? What did you not get that you said you needed?

Mr. MUSE. We didn't get an accurate, timely system that gave us all the information that we required. We got a system that is error prone, that is difficult to operate, is slow to operate. It is expensive to operate. It takes a great deal of time to put into the system. Manually, we have to keep manual records. We have to constantly reconcile the information from the computer back to the supervisors and the individual investigators to make the information correct.

That was exactly what the users' requirements specified that we should eliminate, that unnecessary work to constantly reconcile the data coming from the computer system.

Senator HEINZ. Is it right that that has been a problem even before EEOC was charged with enforcing Age Discrimination in Employment Act cases? Going back into ancient history into the 1970's that computer systems and EEOC just for some reason have never been able to match? Is that right?

Mr. MUSE. We never actually had one until 1977. We had a system called the Linolex system. Then we went to computer system——

Senator HEINZ. And I gather it was a disaster as well.

Mr. MUSE. It was bad also. We have always had that problem, yes, sir.

Senator HEINZ. Well, maybe one of these days lightning will strike and you can get the same crazy, mixed up information all the rest of us get.

Mr. MUSE. I look forward to that. [Laughter.]

Senator HEINZ. Mr. Chairman, if I may, I have one more question for Mr. Bennett.

Mr. Bennett, I think you said—correct me if I am wrong—that in 1986, charges were running the statute, that you, as regional director, were aware of that. Is that right?

Mr. BENNETT. In that one office I was aware of that. That is correct.

Senator HEINZ. What did you tell the district director who had that problem to do?

Mr. BENNETT. Let me state one of the problems was that office had been running without a permanent director—it seems to me it took over 2 years to get a permanent district director there, and that occurred after I left. We were getting an interim district director in, and the review was being done to give him some assistance in what to focus on in the office. So, that particular review was a review of the office but was not specifically of the office when he was the director, because he was just coming into the office.

And he was to respond to the review report and to furnish us a statement of what he planned to do to correct the problems there.

Senator HEINZ. If there were cases about to run the statute, why wouldn't it have been appropriate for you to say to him look, concentrate on those. Don't let any of these run the statute, or take some action at least to prioritize for him, particularly if he is new——

Mr. BENNETT. Let me correct one thing. That was not an office, by any means, that had a problem with a large work load or back-

log or being understaffed. If anything, the office was significantly overstaffed, and they could easily have completed any case in the office well within 6 months.

So, it is a very different situation than what obtained in Kansas City.

Senator HEINZ. But if you were aware there was a problem, isn't there something you could have done? I mean, why have regional directors who are aware of problems if they can't do anything?

Mr. BENNETT. That is a fair question. No, we were aware of it. As you recall if you have read the report, there were a number of things that were mentioned in there, and that was only one part of a much longer report.

Senator HEINZ. Well, let me put it this way. If you had to do it all over again, is there anything you would have done differently? I am not able to put myself in your shoes. I have never been a regional or a district office director.

I can only assume that it is not unreasonable that if you know that cases are about to run the statute that that raises some kind of a red flag and would normally cause a manager at either the district or the regional or any other level to start ringing fire bells and say it is time to go about business in something other than the usual way, that there is a problem that has to be dealt with.

Mr. BENNETT. In my view, Senator, that is what that report was all about, exactly——

Senator HEINZ. I am just concerned about the cases that ran the statute. Why, if this office had plenty of people and you were aware of the problem, did——

Mr. BENNETT. I was aware of the problem when my staff reported back to me what they had found. That is when I became aware of that particular problem.

Senator HEINZ. Was there still time at that point to do something about the cases that were about to run?

Mr. BENNETT. The ones that they reported on in that report had run the statute.

Senator HEINZ. Well, okay.

Mr. BENNETT. As I mentioned before, it was surprising to me about that particular office, because they had developed their own automated system that tracked things quite well, and also the supervisors and also most of the investigators also had systems of their own to keep track of things.

If I might digress a little bit, I agree generally with what Don Muse has said about the lack of a reliable commissionwide data system, but also we are talking about individual responsibility of individual investigators and first line supervisors as well. It is inconceivable to me that this problem could have been existing in any large measure and people not being aware of it, because supervisors met frequently with their investigators and also should have been on top of the work load, as well as the individual investigators taking responsibility for their actions as well.

Senator HEINZ. Mr. Chairman, one last question to Mr. Bennett.

Is it the responsibility of the regional directors to sort out the allocation of resources among the district offices in one's region? Can you transfer slots from one district to another?

Mr. BENNETT. I am glad you asked that question. I did not have that authority. I believe it was in 1986, or maybe 1985—I can't remember the exact year—when the three regional directors got together. We determined, using a computer system that one of us developed, that by reallocating the staff in the field, moving people from offices that were overstaffed to where they were understaffed and having a very few selected reductions in force, that we would have sufficient staffing in that year which, I believe, would have started in fiscal year 1986 without having to get any additional resources.

We were specifically directed, when we raised the question—and I also wrote a memo, because my part of the project was to write a memo to our superior explaining what we were recommending, and also recommending that this be implemented early in the fiscal year so that we could realize the savings and redistribute the staff.

Senator HEINZ. And what happened? Was it implemented or not?

Mr. BENNETT. Well, let me tell you. We were told specifically that any mention of a reduction in force was absolutely forbidden and to banish the word from our vocabulary. I had the audacity to raise it again in another meeting, and I was jumped on——

Senator HEINZ. Who told you that it was verboten?

Mr. BENNETT. That was my superior, my immediate superior.

Senator HEINZ. Who was your immediate superior?

Mr. BENNETT. The Director of Program Operations. And he told me the second time I raised the issue that I must not have understood him correctly the first time, that it was a word that I was not to be talking about again. So, we——

Senator HEINZ. But what about the issue of transferring slots from one place to another?

Mr. BENNETT. You mean if there were vacant slots?

Senator HEINZ. No, transferring—if one office had 10 more slots or people than were needed and another office needed 10 more people—I guess Ms. Bruner's office needed more people—I thought you said you did not have the authority to make those reassignments, but my understanding was that you were seeking the authority subsequently to make them.

Mr. BENNETT. That is right. That is correct.

Senator HEINZ. Have you got that authority yet or not?

Mr. BENNETT. Well, I left the Commission in March 1987, and at the time I left, we did not have that authority. As a matter of fact, we even ran into problems transferring cases which, I think, is——

Senator HEINZ. Well, to a certain extent, that is more understandable. If the problem exists in Dallas and you transfer the case to Seattle, it makes the investigator's job a little more difficult. I think it is probably more logical to transfer slots.

Mr. BENNETT. But it also makes the manager's job more difficult if you have 15 more investigators in one office than you need and 15 fewer, as in St. Louis, than you need.

Senator HEINZ. Sure.

Mr. BENNETT. From a regional director's perspective, that is a lot more difficult situation to handle than transferring cases would be.

Senator HEINZ. I understand that, but from the standpoint of service to the aggrieved party, it seems to me—again, I am not a lawyer. I am not an investigator. I don't run a regional or district

office—all things being equal, you would rather have the people you need where you need them rather than the cases where the people are.

Mr. BENNETT. Absolutely, and that is why we did that study and asked for that authority to transfer the people. That is when we were told not only that we couldn't do it but don't even talk about it any more.

Senator HEINZ. Okay. Mr. Chairman, thank you very much.

The CHAIRMAN. You know, we subpoenaed each of you for testimony because we think the proper place to start is at your level and then go to Washington to headquarters and find out how they view the problem.

Mr. Bennett, the report you are referring to was a July 16, 1986 report? [1]

Mr. BENNETT. Yes, sir.

The CHAIRMAN. That was to the Detroit district office director. Is that correct?

Mr. BENNETT. Yes, sir.

The CHAIRMAN. And part of that, the report reads, "establish an effective system for monitoring the ADEA age discrimination cases' 2-year time limit for filing suit." That was part of your report in July 1986.

Mr. BENNETT. Yes, it was.

The CHAIRMAN. Did you get much of a response to that portion of it?

Mr. BENNETT. I don't remember what the response was.

The CHAIRMAN. It did not effectively set up a system?

Mr. BENNETT. I don't know. I don't know if there were problems after I left Detroit or not.

The CHAIRMAN. Okay. Ms. Bruner, just to reassure you that the mails do work, your three memos, three, beginning in 1986—I believe the first one was in August 1986 and the second one in February 1987 and the third one in March 1987—asking about the 2-year statute problem indeed did reach headquarters, and the reason we are sure of that is because when we subpoenaed the information, headquarters indeed provided copies of those memos to the committee.

So, I just want to assure you that those memos were received by headquarters, and they were filed.

Ms. BRUNER. Could I clarify one point, sir?

The CHAIRMAN. Yes.

Ms. BRUNER. I would like to point out that in the St. Louis district, we did prioritize as many age cases as we could along with all of our other priorities. I don't want you to think that we didn't try to do it.

The problem there was simply volume. The 2-year backlog there—these cases had been stacking up. There was like 2 years of work when I first got there, and we were taking in more than could be done by the staff. In fact, the backlog was growing at the rate of 600 per year. This is what I reported in the memo to Mr.

[1] See p. 19.

Bennett just in the Kansas City office alone, and it was growing at the rate of about 300 per year in the St. Louis office.

The CHAIRMAN. One question I have is about these telephone conferences between headquarters and the field offices. Are 23 different district directors on the line at the same time?

Ms. BRUNER. Yes, sir.

The CHAIRMAN. Who does the talking?

Ms. BRUNER. Generally, it is conducted by Mr. Troy, the Director of OPO.

The CHAIRMAN. Mr. Troy?

Ms. BRUNER. Yes, sir.

The CHAIRMAN. And he is the assistant to the Chairman?

Ms. BRUNER. He is the Director of Program Operations.

The CHAIRMAN. Directly under the Chairman.

Ms. BRUNER. I am sorry?

The CHAIRMAN. Directly under Chairman Thomas.

Ms. BRUNER. Yes, sir.

The CHAIRMAN. Now, does he do most of the talking? How do you raise a point in these discussions?

Ms. BRUNER. Well, a director could raise a point if they wanted to, simply by asking a question.

The CHAIRMAN. How long did these telephone conversations last where 23 district directors were on the line with Mr. Troy?

Ms. BRUNER. I would say 30 minutes to 45 minutes usually.

The CHAIRMAN. Mr. Muse, getting back to you, prior to your testimony here today, you were asked to review a collection of internal EEOC memos and reports regarding development and maintenance of a tracking system beginning in 1983 to the present. What do these documents say to you? What do they tell us?

Mr. MUSE. These documents on the charge data system, Senator?

The CHAIRMAN. Yes.

Mr. MUSE. I can only answer you, Senator, that I have lived with this system for many years, and I have been involved with this one for 4 years. What these documents in this packet that you gave to me represent to me which is a 4-year—I am sorry—5-year attempt to get a recordkeeping system. What I see is gross mismanagement. I am not reluctant to tell you that the system of recordkeeping has been grossly mismanaged by the agency.

The CHAIRMAN. Well, in a January 24, 1985 memo, you stated that the "cost of mismanagement is approximately $400,000." $400,000 for what?

Mr. MUSE. We had purchased software and hardware that wouldn't meet the requirements of the users. Management, any kind of management, would dictate that you get the users' requirements first, Senator, and then you get the software, and then you get the hardware.

We had done it backwards. We had gotten the hardware, the software, and then we came forward with the users' requirements. That is what I was required to do when I went to headquarters, and that is what my memo speaks to. When I got there to determine the users' requirements, the hardware and software had already been purchased which meant computers and software that wouldn't do what the users' requirements indicated.

The CHAIRMAN. You spoke in your memos about waste and mismanagement. What did——

Mr. MUSE. Waste and mismanagement?

The CHAIRMAN. Yes.

Mr. MUSE. The money was set aside. That money was set aside specifically to clear up an acute problem in this agency for years and years, and that was to obtain a recordkeeping system that worked that had all the ingredients in there, including requests from Senatorial subcommittees. Everything was put in there. That was a consideration in determining the users' requirements, what kind of information the subcommittees are going to ask us for EEOC was all put in there.

When it came time to get the software and hardware to implement the users' requirements, the money had already been spent for software and hardware that wouldn't work, Senator.

The CHAIRMAN. Well, how much money was spent?

Mr. MUSE. The original——

The CHAIRMAN. Some of the documentation I looked at, it looks like it would be fair to say that about $80 million was spent over 10 years for this system.

Mr. MUSE. My memo speaks to only the purchase of the hardware and the software that we since primarily abandoned for use in the charge data system. But I can only speak to in most of those years, we spent a great deal of money in manpower. It is the most important ingredient in that. The hardware and software——

The CHAIRMAN. Is that the mismanagement you are talking about?

Mr. MUSE. I am speaking directly of mismanagement.

The CHAIRMAN. And that is the waste you are talking about?

Mr. MUSE. Yes, it is, sir.

The CHAIRMAN. So, it is manpower.

Mr. MUSE. Manpower and software.

Senator HEINZ. Mr. Chairman, I am not clear. What manpower is this?

Mr. MUSE. The manpower it takes to put into this system, sir, that doesn't work.

Senator HEINZ. When you say manpower, you mean putting the records into the system?

Mr. MUSE. Yes. We put this wealth of information into the computer, and we can't get it out in digestible components, so we have to go back and do it manually. The work to put it in and then maintain manual records to get everyone what they want, including this committee. That is what I am saying. That is the waste and that is the mismanagement.

Senator HEINZ. But if the software was corrected, the records that have been input via that manpower you have just described will be retrievable.

Mr. MUSE. I don't believe it will. I don't think the system will ever work. I think it was programmed wrong, sir. The collection on it is wrong. The program is on it wrong, the equipment is wrong, and the software is wrong.

Senator HEINZ. Well, I don't know a lot about computers, but, normally, you input through a terminal onto a master data tape, and that tape can be in a variety of computer languages, and all

you need is the equivalent of a compiler and any other computer can read those languages.

Is that not the case here? Isn't the data in retrievable form? You may not have the software to read it, but once the data is entered, I find it inconceivable to believe that it is not on a master data tape.

Mr. MUSE. Senator, it is a complex system. The major problem with the system is we have approximately 118 different entities going to headquarters with the information. We have approximately 70 State and local agencies and 48 field offices of the Equal Employment Opportunity Commission. They all go to headquarters, and they should not go to headquarters. All the offices within the jurisdiction of the district office should have that information coming into them, because they are the primary users and they maintain the——

Senator HEINZ. I am not quarreling with that. I just want to be clear as to whether all this key punching will never result in a retrievable record ever again under any circumstances. You may be right, but I find that difficult to believe based on my humble knowledge of computers and computer programming.

Unfortunately, my kids can retrieve anything from their computers and other people's as well.

Mr. MUSE. Could you give me their names?

Senator HEINZ. Even the Defense Department finds people retrieving things from their computers without authorization.

Mr. MUSE. The difficulty is we have had a series of problems with the system in down loading and up loading and so forth. In the Birmingham office alone, we lose sometimes as much as 1,400 files in one fell swoop. We have to reenter all of that. No matter what we get out of the computer, even today, we have to manually reconcile that with the supervisors and, many times, with the individual investigator. That is a time consuming, wasteful process.

Senator HEINZ. May I just ask one other question of Mr. Muse?

The CHAIRMAN. Sure.

Senator HEINZ. You were all very helpful when you indicated to me the number of cases that you had pending at any one time for age discrimination cases. It kind of—many offices had around 600 cases was the way—the percentages varied, but one office—I have forgotten which one it was. It may have been Ms. Bruner's office.

If you were to put all of those cases into a tickler file that stretched for 24 months and had 24 pockets in an expandable file, the kind my office uses on a daily basis, you would have roughly two to three dozen cases—on the average, about two dozen cases—in each monthly pocket for the tickle system.

The question I have is, if you only have a couple of dozen, on average, age discrimination cases in pocket 21, 20, 22, 23, and 24, aren't those sufficiently obvious that you do not need a computer to track them?

Mr. MUSE. You are correct in saying that, but it is incorrect to say that that is not a wasteful process to do it manually. That is exactly what the computer is designed for. You simply go to the computer and say give me all the charges——

Senator HEINZ. I am not arguing about the efficacy of computers. I am just saying that in terms of the issue that got us all interested

in this situation, Senator Melcher's legislation which dealt with it, I still am curious as to why, given the relatively small number of cases that are going to get to the end of that accordion file assembly line, why those are not easily trackable manually by any district office.

Mr. MUSE. My answer would have to be that they are easily trackable. You would just simply have to ask each individual investigator how many cases are going to be two years old within what period of time. It would be easily trackable manually.

Senator HEINZ. Senator Wilson, I can't hear you. Maybe you have a question you would like to jump in on?

STATEMENT OF SENATOR PETE WILSON

Senator WILSON. I was just following your logic train, Senator Heinz. If there are few enough cases so that they can be handled in the fashion that Senator Heinz suggests, then whatever the computer problem exists wouldn't it seem reasonable to argue that it is an intractable problem. How is the backlog developing?

Mr. MUSE. If you look at it from the standpoint that each investigator would carry a heavy work load, that we weren't giving—as Lynn Bruner has pointed out—we weren't giving priority to age discrimination cases per se. We were giving priority to any cases that would be over 300 days old, and we never separated them out simply by statute to make that determination.

In many of the offices, Senator, we are grossly understaffed like the Kansas City office, and they had many bells ringing, not just the Age Discrimination in Employment bell. They had a lot of bells ringing.

That is the only excuse that I can indicate to you, is that manually, you could have tracked it. We simply didn't do it. It would have been much easier at the beginning of the year to identify all those charges and set up a tickler file.

Senator WILSON. Are you saying that over a period of time, the case load has built for individual investigators?

Mr. MUSE. Oh, yes. Some of the offices as high as 80 or 90 cases per investigator, an impossible work load.

Senator WILSON. What do you find responsible for the growth in case load? Are there more charges being filed? What is the answer?

Mr. MUSE. That is an acute problem with the agency and one we have tried to identify and come up with a solution for. In many of the offices, their productivity is 50 cases per investigator per year. In some offices, it is 100. As Mr. Bennett indicates, the problem is how to get people from an overstaffed office where you have very, very few vacancies to an understaffed office where you need help, and we simply don't have a solution for it.

Senator WILSON. Are you saying there is no uniformity in terms of the growth in case load across the country?

Mr. MUSE. Yes. The West Coast has grown much greater than the East Coast, so most of the disparity is in the East Coast where the overstaffing is. The understaffing would be on the West Coast, Senator.

What we have done to circumvent that problem is to transfer case loads, transfer the cases, from one understaffed office to an

overstaffed office to compensate for the fact that, in many offices, there are very few professional vacancies so you can transfer the vacancy. It is a very expensive process to—a very demoralizing system of a reduction in force. It is a very demoralizing process for an agency to go through.

If you have to transfer people, people who are willing to transfer, it costs approximately $30,000 each to transfer a person from one district office to another district office, and we simply don't have the budget for that.

Senator WILSON. What has been your experience, then, in transferring cases rather than investigators?

Mr. MUSE. I am sorry, I didn't understand you, sir.

Senator WILSON. As you just described it to me, you have tried to deal with an uneven distribution of case load not by transferring the investigators for the reasons that you just indicated but, instead, by transferring cases from those understaffed offices to those that are, as you said, overstaffed.

Mr. MUSE. It is a very difficult, complicated process the way that it is structured now. Everything has to go through headquarters. Lynn Bruner is the St. Louis director, Senator, and she has already testified the difficulty that she had in transferring some of her work load to another office. She wrote three memos during an 8- or 9-month period of time. She wasn't able to effect a transfer.

It is difficult to transfer charges around. I don't have an explanation for that. In the Seattle office, I transferred cases from Los Angeles and Oklahoma City with relative ease for 8 years. It was with relative ease when I worked together with the district directors. When headquarters got involved, then it became very, very complicated.

That is about the only explanation I have for it. I know that the system will work, and I know that it will work well. I know that working with the other directors—I worked with Lynn Bruner and with Hermilo Gloria for many years, and I know they are competent, and I have transferred charges around from my office to their offices and back and forth. I know that it doesn't have to be a complicated process. Right now, it is a complicated process.

Senator WILSON. Are you required by law or by regulation to follow the procedure that involves a central Washington sign-off on these?

Mr. MUSE. No, that is all generated from headquarters. We are not required by law to do that, no, or regulation.

Senator WILSON. I have missed something, then, because you said that the only thing that you could identify, if I understood you, as unnecessarily complicating the process was that there came a time when you were no longer simply making the transfer from one office to the other, that there had to be some approval. What approval?

Mr. MUSE. Headquarters, the regional directors had to approve transfers of cases.

Senator WILSON. What occasioned that change? Was there a change in regulation?

Mr. MUSE. No. I think it was just a change in policy of the Office of Program Operations where you had to go through headquarters before you transferred these charges, and there was great, great

delay involved in it. I have memos beginning in September 1986 saying I could use 500 more cases, I can resolve them, and we didn't get the cases until July of the following year. You had to get headquarters approval to do it. Lynn Bruner is not the only one who experienced that delay in getting headquarters approval.

Primarily, it is a transfer of cases between district offices, and there is very little reason why headquarters has to get involved in that.

Senator WILSON. All right, let me ask you this. I am still not quite clear on whether or not this growth in case load was simply a growth in the understaffed offices or whether there was, over a period of years, either a gradual or not gradual marked increase in caseload.

Mr. MUSE. I think the trends are, during the last 8 years, that the trend was there was an increase in intake of charges on the West Coast and a decrease in the East Coast and the mid-United States, sir.

Senator WILSON. Now, that has to do with intake.

Mr. MUSE. Intake of charges, workload.

Senator WILSON. The number of charges filed.

Mr. MUSE. Yes, sir.

Senator WILSON. Or received, rather.

Mr. MUSE. Yes.

Senator WILSON. What is the explanation for that?

Mr. MUSE. It may very well have something to do with the shift of population. For a long time during this same period of time, the industries were moving to the West Coast and moving out of the South. Now, they are moving back.

I should explain a misconception about these charges indicated up here. These charges—nationwide in a 1-year period of time, there are approximately 100,000 charges taken in the United States. We take, the Equal Employment Opportunity Commission, takes about 60 percent of those, about 60,000. The other 40,000 or 40 percent are taken by approximately 70 State and local governments, including the State of California, and they take those under their own law. They are funded by their own city agencies, the city of Anchorage, the city of Seattle, the city of Takoma, and so forth.

We subsidize them approximately $400 a case with the $20 million Congress funds. That is our State and local agency funding.

It is approximately a 60 percent split. This represents the 60 percent we take in, about 60,000 a year, and the other 40 percent, 40,000, are taken by State and local agencies.

When we are talking about a computer system, we are talking about meeting the legal requirement that we have to defer, by law, to the State and local agencies for a period of 60 days before we can handle them or we have to get a waiver of deferral. With the computer system, of course, that is what you use to track these systems, how long they have had them, when they come back. You have to look at it, approve that, and pay them $400 for each case that is resolved in that manner.

However, there are actually 100,000 a year, approximately, rather than the 60,000 represented there.

Senator WILSON. And do they get paid if they do not resolve them?

Mr. MUSE. Well, they resolve them in many ways. If they resolve the case, they get paid for it, generally, if we have the funding. Many times, we don't have the funding, so they are paid by their own State or local government. We fund only $400 a case, and we have limited funds to do that. So, if we don't have any funds, we don't pay them for it.

We have a contract with them and a work sharing agreement with them. The work sharing agreement indicates that they may have some charges I want and I may have some charges they want. They may be looking at a particular industry, so we exchange charges back and forth between the agencies involved.

Senator WILSON. Has there been a qualitative change in the kinds of complaints that you are getting as it relates to discrimination against the aged?

Mr. MUSE. I believe there is a trend that would show that during the last 5 years, we are getting more age charges and more sex charges than we have ever gotten before. I think the percentage has increased measurably.

Senator WILSON. Is there a difference in terms of the evidentiary requirements? Are some easier and some more difficult as between sex, age, race?

Mr. MUSE. Yes, there is a difference in complexity between them. We have several different types of charges, Senator. One would be a one on one type charge, one person comes in and files one charge against one company. We have other charges. We have a systemic unit where we pattern practices in job discrimination. We have great emphasis on our systemic program, because it eliminates systems of job discrimination. That takes years, sometimes, to investigate a charge.

The average case over 22 years under Title VII, age, or equal pay would probably take an average of 40 hours. That is a ball park estimate.

I don't believe the complexity has increased a great deal in the last 5 or 6 years. If we are investigating them for litigation, as we have been—we have been emphasizing that for 6 years—I think you simply have to do a better investigation. If you are doing a better investigation, it simply takes more time.

We deemphasized the use of no-fault settlements. At one time in 1982, we were settling 45 percent of everything that came in the front door on a no-fault settlement, 45 percent. That is an awful lot of charges. We have declined now to about 12 percent because we are requiring, generally, that we do some degree of investigation before we no-fault settle the charge, and that is reflected in the backlog.

No-fault settlement charges would take approximately 5 hours, whereas an investigation to reach a finding of cause or no cause to find if the law was violated takes approximately 40 hours to do that.

Senator WILSON. Since the purpose is to prevent discrimination, is the tougher policy proving to be the kind of deterrent that presumably is hoped for as opposed to a more conciliatory approach?

Mr. MUSE. I think our litigation policy we adopted about 3 years ago is outstanding. I think it has done a great deal to eliminate job discrimination in the country.

If the district director finds there has been a violation of the law, then we have to send it to headquarters and get the Commission to vote on it. I think that policy is excellent. It is outstanding. I think it has done a great deal to eliminate job discrimination.

We never had that before. The district director now, with at least 80 percent certainty, can find that there is a violation of the law, send it to headquarters with about an 80 percent certainty that it is going to be litigated. Prior to that time, the chance was you were lucky if you batted about 30 percent. They could kick them out of there for a lot of intangibles, but now, we have about an 80 percent surety that if the district director finds there has been a violation of the law, Senator, that case will be litigated.

Senator WILSON. Mr. Chairman, let me just ask a couple more questions, because we are getting into an area that I think is of particular importance.

Have you found, any of you—have you encountered a situation in which it appeared that someone was systematically discriminating because they thought they, on balance, would do better by discriminating and paying whatever penalty they had to pay, in other words, that it was worth it?

We recently had a situation in which election laws were deliberately violated because the people were willing to pay fines in order to gain the advantage of violating the statutes. Have we had any situation of that kind?

Mr. MUSE. I am sure we do. I am sure that, in many cases, especially on age discrimination, especially on early out retirements and so forth, I am sure that they sit down and, from a business standpoint, Senator, they would say, okay, let EEOC take us on on this. It is not going to cost us as much money as if we went ahead and did it this way. I am sure they make business decisions like that.

Senator WILSON. Now, is that true whether you are talking about the litigation policy that presently exists as compared with the no-fault approach?

Mr. MUSE. The no-fault approach, as I indicated, was a short, maybe a 5-hour, process to find out if they were going to settle it. The litigation process has a lot more virtues than simply getting relief for the charging party. It is a great deterrent to job discrimination to advertise in the newspaper that the Equal Employment Opportunity has sued someone. It is a great deterrent, and we make maximum use of that in the EEOC.

I think perhaps that if it went to litigation, Senator, that they would have, because of the cost of litigation, second thoughts about going through the litigation process rather than settling with us, because——

Senator WILSON. So, you think that on both scores, this tougher policy provides for much greater deterrent effect, both in terms of the costs that are involved and also in terms of the unfavorable publicity that ensues from the actual filing by the EEOC against an employer.

Mr. MUSE. Yes. I think the fact that they know that if we find there is a job discrimination that we are going to litigate enhances our conciliation process. Most of our best charges never get to liti-

gation because they know that we will litigate, and they conciliate the charge with us.

Senator WILSON. So, from the standpoint of deterrence, you probably are gaining greater deterrence from this tougher policy, but in terms of caseload, obviously, the other is easier and you are discharging cases much more rapidly.

Mr. MUSE. Yes, sir.

Senator WILSON. Okay. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Muse, what, in your opinion, should EEOC do about this computer system?

Mr. MUSE. We get six elementary reports out of the system now at great expense, Senator, at great expense. At this point, I just think we should just stop. I think we are putting band-aids. I think it is error prone. I think every time we correct one error, we create another one. It is error prone.

I think we just should scrap the entire thing, go back to the manual record system, pilot a new system, work the kinks out of it, send it to the field. I think that is what we ought to do.

Our emphasis, the last 8 or 9 months, has been more on the records keeping than it has been on eliminating job discrimination. I think it is blown all out of proportion, our records keeping system.

The record keeping system is not just a record keeping system. It is the best resource our district directors have for eliminating job discrimination, because you can—let me give you an example, because I think this is important.

That printout of charges is the best enforcement tool the district directors have. I was in an office in southern California, our office in southern California. We had a series of charges against a large company, age charges. I wanted to look at them to batch them to see if they were all related. I never could get a printout of the computer. I never did it. I was there a month. I never could get the printout.

It would have been an enforcement tool to say hey, you have the same problem here. It is a policy problem dealing with age, and assign all those cases to the same person, and go out and investigate one issue with many charging parties.

I never was able to do that, because I couldn't get a printout out of the computer that would allow me to do that. That record keeping system then becomes a major enforcement policy, and that would happen on many, many, many occasions. If you are targeting job discrimination, it is a way to detect it, and it is a way to enforce the law by implementing.

The CHAIRMAN. Mr. Muse, I want to read from a deposition taken a few weeks ago:

> I have been a district director for over fifteen years. I have suffered all the difficulties of overstaffing, understaffing, Gramm-Rudman, ups and downs. I see one thing during all the time of underemployment and overemployment. There is only one—there is only one element that I feel could overcome that that I have been able to do and other directors have been able to do, and that is good management and good administration.
>
> Unless you have good management and good administration in headquarters to administer to the field, then you will have a condition like we have today, regardless of what is said in headquarters, what is listed as accomplishments, the agency is in chaos when eight of your twenty-three directors are given unsatisfactory per-

formance evaluations and blamed for the lack of the success of the agency. You have to look at the people who are running the agency.

That is your statement, is it not?

Mr. MUSE. Yes, it is, sir.

The CHAIRMAN. What are we supposed to look for at the agency? Are we supposed to look for a policy of failure or a policy of deliberate disregard of responsibility or what is it we are supposed to look for?

Mr. MUSE. You received testimony today from Lynn Bruner, from me, and from Hermilo Gloria, and what you see is bad—what it equates to is bad management.

The CHAIRMAN. Bad management.

Mr. MUSE. Bad management.

The CHAIRMAN. We are supposed to look for bad management.

Mr. MUSE. Yes. You have some directors who have had great success in the Equal Employment Opportunity Commission. Under whatever conditions you have put them under, they have exceeded all their goals. They don't have backlogs of charges. They have eliminated job discrimination. They have done well in the administration of the law.

If you take someone who hasn't succeeded, then you have to look at the reasons why they haven't, and you are examining some of those reasons today. What I am saying is that you——

The CHAIRMAN. What level are we supposed to look for for bad management? I guess that is my question.

Mr. MUSE. If the district directors are failing, why are they failing? They are failing because they are not good district directors. Many times, that is the case. Many times, that is not the case. Many times, the bad management doesn't come from the district director; it comes from headquarters, Senator.

The CHAIRMAN. Well, are you testifying that both bad management at the headquarters level here in Washington and some district directors?

Mr. MUSE. Oh, yes, yes.

The CHAIRMAN. And are you testifying that some of those district directors that have poor ratings are evidence of that bad management, or——

Mr. MUSE. Yes, I am saying that some of those district directors should not have gotten those bad ratings, that they were good directors. I have worked with them for years. I know——

The CHAIRMAN. So, some have received bad ratings that you feel are good directors.

Mr. MUSE. Yes, and some of them are bad directors.

The CHAIRMAN. And some of them are bad directors.

Mr. MUSE. Yes, sir.

Senator HEINZ. Could anybody who is a good director get a bad rating?

Mr. MUSE. Oh, yes, sir, and I am sitting with two of them right here right now, sir. You bet your life they did.

Senator HEINZ. Did anybody who was a bad director get a good rating?

Mr. MUSE. I wouldn't even hazard to answer that.

Senator HEINZ. What were your ratings?

Mr. MUSE. I was a 3, sir.

Senator HEINZ. On a scale of——
Mr. MUSE. Fully successful, sir.
Senator HEINZ. That is what?
Mr. MUSE. Fully successful.
Senator HEINZ. Fully successful. On a scale of 1 to 3, you were a 3?
Mr. MUSE. No, 1 to 5, sir.
Senator HEINZ. 1 to 5.
Mr. MUSE. I was average.
Senator HEINZ. 5 is?
Mr. MUSE. 5 is outstanding, 4 is——
Senator HEINZ. On a scale of 1 to 5, you were a 3. Okay.
Mr. MUSE. Highly effective is 4, 3 is fully effective, and 2 is unsatisfactory, and 1 you are unemployed.
Senator HEINZ. Well, you certainly don't want to go much lower than 3. It is a slippery slope.
Mr. MUSE. I have given it some thought, yes.
The CHAIRMAN. Mr. Bennett?
Mr. BENNETT. May I respond to Senator Heinz' question? When I was regional director, on three different occasions, I was instructed to raise a district director's performance evaluation. So, there were cases where the ratings given, the official ratings, were at least higher than I thought they deserved.
The CHAIRMAN. You gave the ratings yourself?
Mr. BENNETT. I gave the ratings myself, and then I was instructed to change them.
The CHAIRMAN. When was that, by the way, Mr. Bennett? When were you asked to make those changes?
Mr. BENNETT. There was one made, I believe, in 1984, one in 1985, and one in 1986, as I recall.
The CHAIRMAN. Thank you.
Mr. Gloria, have you received any specific instructions on how to handle Claims Act cases?
Mr. GLORIA. No, sir.
The CHAIRMAN. Our review of your memos to headquarters dating back to 1985 clearly indicate that you were not at all pleased with the new tracking system, the charge data system, or the CDS, as it is called. As early as November 1985, you wrote to headquarters that you had serious misgivings about CDS in its present form.
Mr. GLORIA. Yes, sir.
The CHAIRMAN. Can you briefly tell us what you meant by that?
Mr. GLORIA. Well, the system as it was being developed—Mr. Muse has alluded to part of it—that it didn't really meet the needs of the district director. The three items that I was worried about were very simple: the reliability of the system, because the equipment was breaking down all the time; the accuracy of the system, because it had no means for what I call quality assurance or quality tracking; and the third point which was even more critical to us was that it was not user friendly.
It was extremely difficult to program to utilize at the local level. In fact, it has taken—it wasn't until this year that one director at great expense and spending almost 2 years of all his time doing this developed a set of reports that finally meet what the Office of

Program Operations says should be the minimum set of tracking reports and management reports.

You have to understand that the system has three major uses. The principal one for us and the one that is the subject of your inquiries today is for management of the case load to make sure that we don't mess up, that we know where our cases are at all times, that we can track those cases that are approaching a particular statute of limitations or that are getting too old, whatever the case may be. That means tracking not only on a broad scale but down to the individual investigator.

The idea of utilizing resources is part of the tracking. If one investigator has 70 cases and the other has 20 within the same unit, you want to know how come, what is going on. So, the availability of data in minute detail with great accuracy is very important.

I had developed an internal system once they gave me a computer which is still operational, and because we built quality assurance into it, we know our errors. I am using that system to maintain CDS accurate so that the information coming from Phoenix I know is reliable and accurate.

I am going from a system that, at best, can be 80 percent accurate to one that is 100 percent accurate. We are very careful.

So, my memos have been consistent on these three issues: the reliability, the accuracy, and the user friendliness.

There are concomitant problems in terms of resources. CDS is extremely difficult to run, and it requires a lot of intensive hands-on day-to-day nursing of the system. The district offices don't have that kind of staff to maintain the system.

The CHAIRMAN. Did you tell headquarters that?

Mr. GLORIA. I have been doing that up until February of this year when I was told to no longer say so, to shut up and go ahead with what I was supposed to do.

The CHAIRMAN. Did one of your memos in April 1986 state that there were major problems?

Mr. GLORIA. Yes, sir. You will note that my memo in 1986 is very similar to my memo of February 1988. The same problems are still there.

The CHAIRMAN. Two years?

Mr. GLORIA. Two years, and this is based on direct hands-on experience. It is not a critique by somebody who is not familiar with it.

The CHAIRMAN. Well, let's just take those 2 years from April 1986 to February 1988.

Mr. GLORIA. Yes, February.

The CHAIRMAN. February 1988. Did you receive any response from headquarters?

Mr. GLORIA. I did not get direct responses to any of these. I think some of the problems—they attempted to address the problems, but my questions were more major. I was seriously questioning the use of a particular software, File Pro, as I mentioned in here, and I had discussed it at length on the technical level with the vendor, with the contractor, and with in-house people who were implementing CDS.

I made some very—what I felt were some key points to headquarters, but I was told effectively that they had already bought

the system. There was no money. Therefore, they couldn't do anything.

This is more by action than by an actual response to me. I spoke to people, and the impression I got was that nothing was going to be done. They understood what I was saying, but they couldn't do anything about it or were not interested in doing anything about it.

The CHAIRMAN. Well, you are in Phoenix, but some of the field offices—it was my understanding that the district office in Charlotte, NC, gets along all right with it. Do they?

Mr. GLORIA. Well, it took them 2 years.

The CHAIRMAN. Two years?

Mr. GLORIA. Also, he had direct support from headquarters. Steve Hunt who works for the Small Computer Co. actually developed all the reports he has. He had Steve Hunt down there doing them for them.

I don't mind that, because the reports are great. It is just that to do anything else other than that set of reports is essentially pretty much insurmountable for me and my staff, and I have one of the best management information specialists in the agency. Everybody will attest to that.

The CHAIRMAN. What was the rating you were given?

Mr. GLORIA. Last year?

The CHAIRMAN. Yes.

Mr. GLORIA. I was given a marginal rating, a 2 rating.

The CHAIRMAN. 2?

Mr. GLORIA. Yes, sir.

The CHAIRMAN. That is marginal.

Mr. GLORIA. Yes, sir.

The CHAIRMAN. What was your rating the year before that?

Mr. GLORIA. It was a 4.

The CHAIRMAN. You go from a 4 to a 2?

Mr. GLORIA. Well, they said I should have had a 5 except that I didn't produce a couple of extra numbers that I should have produced.

The CHAIRMAN. So, you went from a 4-plus to a 2. Why?

Mr. GLORIA. Principally because of disagreements on management style. I am considered too vocal.

The CHAIRMAN. Were you vocal only about the computer system?

Mr. GLORIA. No, in general. In fact, the mid-year rating I just received raises the same issue again. I received it day before yesterday.

The CHAIRMAN. How do you get to be too vocal?

Mr. GLORIA. By expressing strong opinions either verbally or in writing.

The CHAIRMAN. How long have you worked for the Commission?

Mr. GLORIA. I have been with the Commission for 10 years.

The CHAIRMAN. Ten years.

Mr. GLORIA. At senior level positions from the very beginning. I came in as the equivalent of Mr. Bennett's position when Eleanor Holmes Norton started here.

The CHAIRMAN. Well, why is it that you were so vocal?

Mr. GLORIA. Well, I feel it is my responsibility to point out things that should be corrected. That is my nature, Senator. I am a maverick, if you will. I tend to speak correctly and be on point. I am

not raising bogus issues. I am not blowing smoke, as people say. I am pointing out serious defects.

The CHAIRMAN. So it doesn't just involve the computer. You did give them advice on what to do about the computer, but it wasn't just that.

Mr. GLORIA. Well, that created a lot of problems for them, because I was very——

The CHAIRMAN. Well, is that why you got a 2 rating?

Mr. GLORIA. I feel that was part of it, yes, sir.

The CHAIRMAN. Oh, that is part of it.

Mr. GLORIA. Yes.

The CHAIRMAN. What else?

Mr. GLORIA. Well, the fact that I disagreed on how to manage or how to—there is a major disagreement right now in how to appraise, reward, and take adverse action against staff. I am not a hatchet person. I prefer to do the remedial approach. I am in disagreement with several people who feel we should just lop heads and go forward.

In fact, if you read my rating from last year, that is an area that—I wasn't forceful in taking action. That is the consensus.

The CHAIRMAN. You had a 4-plus and went down to a 2. What about the preceding year?

Mr. GLORIA. I was a 4.

The CHAIRMAN. 4?

Mr. GLORIA. Yes, sir. I missed again because I only handed in 28 litigation items. I should have handed in 32.

The CHAIRMAN. What did you do before you came to the Commission?

Mr. GLORIA. I have been working for the Federal Government for—it will be 38 years this year. I have done everything from being an engineer which is my basic training, to being a program manager. I worked for NASA for a long time. I was their national affirmative action director here in Washington from 1975 through 1978 when I joined the Commission.

I have done just about everything. I have done personnel. I have done administration. I have done finance. I have become a real bureaucrat, if you will.

The CHAIRMAN. A real what?

Mr. GLORIA. A real bureaucrat. I know all the ins and outs of the system, although I am not the mumbling type, as you can hear from what I am saying. I am very direct.

But I know EEOC. I have a lot of friends at headquarters. I know how to use the system. I know who to call to get things done, and I have always used that approach. I prefer the informal approach.

But I will conform to policy. If I am unhappy with policy, I will make it clear. It is not that I won't carry it out, but I will——

The CHAIRMAN. Mr. Muse is sitting right beside you there. He has had 15 years as a director, 22 years with the Commission total. And he says there is something wrong in headquarters. What do you say?

Mr. GLORIA. It is hard to lash out and say that everybody is wrong at headquarters, because I think they have done some good things. I think the enforcement policy and the full remedies policy,

some of the direction we have gotten, has made our job easier in the field.

I think where we fall down is in the administrative side. I have been a continuous critic of our appraisal systems——

The CHAIRMAN. Of your appraisal systems?

Mr. GLORIA. Of the appraisal systems at all levels, not just for me but for the investigators like the two sitting beside me. I have been a critic of our personnel system. I feel it is inadequate for an agency that has been around this long.

I think the one area where I am very satisfied now is in the financial end, because Mr. Fischel had brought in some sense of order to things. If you work with him, you get things done.

But there tends to be—I think this agency, the problem we have, is that they tend to go from fire to fire, and in the 10 years I have been with them, only in 1984 and 1985 did I feel they were looking forward. I think the composition of the Commission at that time was excellent. They came out with the enforcement policy. They came out with some real good guidance for us who have to really fight the battles with the companies at our district levels.

So, I think it is the nature of the beast. The other problem that the agency has—and I will be echoing everything that Chairman Thomas says—is a resource problem. Whether or not I agree about transferring people from one overstaffed office to another, the fact remains that for this agency to process and investigate fully 70,000 charges a year, we don't have enough investigators.

So, the other problem is that the laws that we administer—and I echo Chairman Thomas in this—we do not punish the offenders. All we do is make the person who was discriminated against whole.

Even our standard now for punitive damages on equal pay and age has been eroded by the latest decision by the Supreme Court. So, the standard for a willful violation has been demolished.

I echo your comments. Why should we have a 2-year statute of limitations on age? There is no rationale for that.

So, my feeling right now is that directors are doing the best job they can do with the resources at hand, and the reason I am so hot on the computer is that with our little successful system, I was able to take the bookkeeping duties away from my supervisors so they could supervise investigators and do good investigations. They didn't have to wear a green eyeshade and reconcile numbers for me. I knew exactly what they had.

Moreover, I have shared my data with the investigators themselves so they know. I don't have a tickler system per se. I just say here are your age cases that will be 24 months old as of this date. That comes out every month.

The CHAIRMAN. How many ADEA cases did you have that ran the statute of limitations?

Mr. GLORIA. We had 20 that were listed, but all of them had had a decision. All of them had letters that went out to the charging parties. The charging parties did not proceed to go to court. At least 6 of them were going to go to court. We actually tolled the statute by holding conciliation open until we were ready to file.

So, of the 20, at least half we already had rendered decisions on.

The CHAIRMAN. Well, we have heard from the regional director and three district directors. Now we will hear from some investigators.

Ms. Hannah, what has been the experience in the Birmingham office with the computer tracking system?

STATEMENT OF VANESSA HANNAH, INVESTIGATOR, BIRMINGHAM DISTRICT OFFICE, EEOC

Ms. HANNAH. Mr. Chairman, Birmingham has not had a computer tracking system until very lately, very recently. Most of our tracking was done manually.

The CHAIRMAN. Did you get along all right manually or not?

Ms. HANNAH. I wouldn't know. That was a management problem, and they didn't involve the investigators with it.

The CHAIRMAN. You weren't involved in it?

Ms. HANNAH. No.

The CHAIRMAN. Mr. Morrow, what about at the Dallas district office? Do you have a computer tracking system there?

STATEMENT OF LEVI MORROW, SENIOR INVESTIGATOR, DALLAS DISTRICT OFFICE, EEOC

Mr. MORROW. Basically, I would have to echo the same thing Ms. Hannah is saying. We just recently have gotten a computerized system in Dallas. Just as late as when I left Dallas Friday, they had Mr. Ed Elkins in from Charlotte, I believe, trying to help set up the system that he has operating, I think, in his office.

The CHAIRMAN. The same as they have in Charlotte.

Mr. MORROW. Right.

The CHAIRMAN. Well, Ms. Hannah, prior to last fall when it was discovered there were hundreds of age charges that had run the 2-year statute of limitations, what had been your understanding regarding this statute of limitations?

Ms. HANNAH. We had never had a policy of a 2-year limitation on charge cases—on age discrimination cases. Our main concern was that we got our cases out of the system in 300 days. We did not separate age cases whether they were filed yesterday and the action took place 20 months ago. We were only concerned with getting that case out of the system before it aged with us at 300 days. We treated it like any other case, Title VII or EPA.

The CHAIRMAN. Did you get them out in 300 days?

Ms. HANNAH. Yes, as far as I know.

The CHAIRMAN. Do you know of any where the statute of limitations ran out?

Ms. HANNAH. Not until the investigation began recently. Not until it was brought up last fall that we had had some cases that the 2-year statute had expired on.

The CHAIRMAN. How many?

Ms. HANNAH. I don't know. We were never given a number.

The CHAIRMAN. You were never given a number. How many investigators do you have in Birmingham?

Ms. HANNAH. I think it is about between 48 and 50 investigators in the Birmingham district office.

The CHAIRMAN. That is a lot of investigators. Did your misunderstanding of this—I am going to call it a misunderstanding—did that have anything to do with how much training you were provided and other investigators were provided?

Ms. HANNAH. I think it had a tremendous amount—reason for that happening. When I came on board with the Commission in 1981, we had a separate age and equal pay unit from Title VII. They compiled all the units—and I was given training in just—well, I was placed in a room with 15 other people when I first came on board and read the manual on Title VII, and 9 months later, we got some training on that.

But when age and equal pay was lumped in with Title VII, I think we got like a 2 to 4-hour overview on the age and equal pay laws. So, that was the extent of our training.

The CHAIRMAN. Two to 4 hours?

Ms. HANNAH. Yes.

The CHAIRMAN. What did you figure you knew after 2 to 4 hours of that overview?

Ms. HANNAH. At that time, I guess we figured that we knew everything there was about age and equal pay.

The CHAIRMAN. Were you assigned ADEA cases immediately?

Ms. HANNAH. Right.

The CHAIRMAN. Prior to this hearing in an interview with staff, Ms. Hannah, you stated that you and your co-workers feel like you are at a catch-22 situation in trying to deal with the work load. First of all, how much work load do you have?

Ms. HANNAH. Right now, the work load in my office is running anywhere from 60 to 90 cases per investigator.

The CHAIRMAN. And you have been with them 7 years?

Ms. HANNAH. Right.

The CHAIRMAN. What GS rating do you have?

Ms. HANNAH. 11.

The CHAIRMAN. Do you have anybody working under you?

Ms. HANNAH. You mean that I supervise or——

The CHAIRMAN. Yes.

Ms. HANNAH. No.

The CHAIRMAN. And you have how many cases again?

Ms. HANNAH. In my inventory, I have 60 right now.

The CHAIRMAN. 60 right now.

Ms. HANNAH. Right.

The CHAIRMAN. And your guideline is how many have been in there 300 days?

Ms. HANNAH. I can't have any more than 2 percent at the end of the ratings period.

The CHAIRMAN. Well, at the end of the ratings period—what do you do to get ready for the end of the ratings period? Do you just sign off on a bunch of them or how do you get rid of them?

Ms. HANNAH. Any way possible. Possibly settlement. Hopefully, enough information has been gathered to make a cause or no cause determination. Some of them you can't reach the charging parties or the parties will no longer respond—administratively close those. However we can get them out of the system, because it is important on our G–PAR's that we have no more than 2 percent.

The CHAIRMAN. If you have to get rid of every case within 300 days, that means during the course of the year you get about 80 or 90 cases?

Ms. HANNAH. Correct.

The CHAIRMAN. And you are to get rid of them. That is the policy.

Ms. HANNAH. Correct.

The CHAIRMAN. That is hard to believe.

Ms. HANNAH. Well, the policy now is becoming even more stringent, because they are trying to reduce it from 300 days down to 270.

The CHAIRMAN. Did you have the same experience, Mr. Morrow?

Mr. MORROW. In my case, it is a little bit different since, at the present time, I don't maintain a case load per se since I spend a considerable amount of time on my union activities. However, what she is saying is true.

Right now, we are entering the fourth quarter of the fiscal year. Historically, within our agency, at the beginning of the fourth quarter, the pressure becomes tremendous from the managers all the way down to the investigators to close cases.

Until the investigation was begun by the Chairman in terms of cases going beyond the 2-year statute, prior to that, there wasn't any emphasis placed on that to the investigators. It was more or less you close cases.

In terms of the training, I will just go back to our last reorganization which was June of last year when we eliminated our charge receipt section and incorporated that into the investigators' duties, but we had a considerable number of employees who were performing those functions strictly and were not doing investigations. After the reorganization, they were integrated into the investigator series.

They were given a case load, and they were told—the memos that came from Washington indicated that they were to be carried as trainees for 90 days, I believe it was, and after 90 days, they would have to perform as any seasoned investigator.

The only age training that a majority of those individuals have received has been in-house training that the district directors themselves put together which will usually last anywhere from a couple of hours to—the longest, I think, is probably a week. Some of the district directors have periodically had ongoing training.

But these individuals now, after 1 year, have a sizable case load where the case loads run anywhere from 60 to approximately 120 cases, but they are expected to go out and be able to enforce the law as someone who has been with the Commission 10 years and never had all the training.

There has been no formal agency-sponsored ADEA training, I would have to say, within the last 5 years, and I am being generous.

Senator HEINZ. Mr. Chairman, may I ask a question on that point?

The CHAIRMAN. Yes, I wish you would, Senator.

Senator HEINZ. First, Ms. Hannah, my understanding is that you got minimal to nonexistent training. You kind of got handed a manual when you joined the agency. Is that right?

Ms. HANNAH. That is correct.

Senator HEINZ. When was that?

Ms. HANNAH. In January 1981.

Senator HEINZ. January 1981. That was a while ago.

Ms. HANNAH. Yes.

Senator HEINZ. It is my understanding that last year, 1987, EEOC instituted a special training program for its investigators. Did you participate in that program?

Ms. HANNAH. Yes.

Senator HEINZ. How effective was the training and did it help you or other investigators to do your job better or not?

Ms. HANNAH. I think the training last year, basically, was about the new intake unit that we're being integrated into because of the reorganization.

Senator HEINZ. So, you are saying it didn't consist of much training?

Ms. HANNAH. That is correct.

Senator HEINZ. Is that what you were referring to a moment ago, Mr. Morrow?

Mr. MORROW. No, I wasn't referring to the Dallas training. I was just referring—oh, you mean in terms of the reorganization?

Senator HEINZ. No, well, that there was some special training that EEOC implemented last year.

Mr. MORROW. Right.

Senator HEINZ. Were you involved in any such program?

Mr. MORROW. Right.

Senator HEINZ. And how would you describe that training?

Mr. MORROW. First of all, the training did not even deal with age. There was no age training involved in that.

The CHAIRMAN. What month was that?

Mr. MORROW. That was 3 weeks in June of last year. Each week, a total, I think, of 400 to 500 investigators would come in for 1 week of training, and then they would leave and another group would come.

The CHAIRMAN. Where was this training conducted?

Mr. MORROW. It was at the Lincoln Hotel in Dallas, TX.

The CHAIRMAN. It was in Dallas?

Mr. MORROW. Right.

The CHAIRMAN. Were these investigators coming from all over the country?

Mr. MORROW. That is correct.

The CHAIRMAN. Now, you are a senior investigator. That means you have how many investigators under you?

Mr. MORROW. No, a senior investigator is just a title. We supervise no one.

The CHAIRMAN. Well, then I misunderstood you. I thought you said you did not have cases.

Mr. MORROW. I said I did not maintain a case load in the same manner as Ms. Hannah because the majority of my time is spent performing union functions. I am the president of the local, chief negotiator for the council, affirmative action coordinator for AFGE. So, that takes up a considerable amount of my time at the present.

The CHAIRMAN. I see.

Senator HEINZ. So, you are both describing the same training experience.

Mr. MORROW. Right.

Senator HEINZ. Which was there was, over a period of three weeks, a training program. People were brought to a location.

Mr. MORROW. Right.

Senator HEINZ. Was it always Dallas, do you know? Did everybody go do Dallas nationwide?

Mr. MORROW. Right, yes.

Senator HEINZ. In three groups?

Mr. MORROW. Right, 3 different weeks.

Senator HEINZ. Ms. Hannah, could you describe the curriculum or what it was that they went over during the week period?

Ms. HANNAH. Basically, we went over interviewing techniques, drafting charges, role playing—well, role playing and interviewing techniques, I think, are just about the same thing. Somebody would take the part of a charging party and somebody would take the part of a respondent. So, it was really interviewing techniques, I guess for the new intake unit that we were being integrated into basically. That was what it was.

Senator HEINZ. Would a new investigator have found those useful?

Ms. HANNAH. Yes.

Senator HEINZ. So, things have at least improved a bit since 1981 in terms of training. At least last year, there was an effort to train people.

Ms. HANNAH. Yes, there was an effort.

Senator HEINZ. You don't seem to think anything much of it.

Ms. HANNAH. No.

Senator HEINZ. Yet, I gather, compared to the training you had in 1981 in January and that employees before that had had under Eleanor Holmes Norton, there wasn't any at all, period.

Ms. HANNAH. I don't know what the employees had before I got there.

Senator HEINZ. Thank you, Mr. Chairman.

The CHAIRMAN. I think that is a pretty significant point. Mr. Morrow, you must have been involved in a lot of discussions on training or lack of training or types of training.

Mr. MORROW. Well, to respond to Senator Heinz, we did have a training academy set up during Mrs. Holmes Norton's administration when she was Chairman, and we did receive, I think it was, about 3 weeks per individual——

The CHAIRMAN. How many?

Mr. MORROW. It was either 2 or 3 weeks that everyone was flown to Washington and given comprehensive training under her new system, and periodically during the year, people were sent to Washington. As a matter of fact, I think the last comprehensive age training that was given by the agency was during her administration.

The CHAIRMAN. Ms. Hannah, did you participate in that? It didn't seem like——

Mr. MORROW. She wasn't here then, I don't think.

Ms. HANNAH. I wasn't with the agency.

The CHAIRMAN. This was prior to 1981 then?

Mr. MORROW. Right. Now, the training in Dallas that they held for the investigators, it was quite good for people who were just coming into the Commission and who haven't had a chance yet to get indoctrinated into our system. Also, it was great for any investigators who needed refresher courses in terms of brushing up on their interviewing techniques or what have you.

But in terms of what we are dealing with here as far as training on the age act, there was none.

The CHAIRMAN. Do you think that was a flaw in the training?

Mr. MORROW. Well, if I am not mistaken, myself along with Ed Watkins, the president of the council, we had brought this up to various individuals in management prior to the training in Dallas about age training and also possibly that if we were going to have training next time, maybe we could get off into some theory training so that if people are going to go out and investigate, they have to know what they are looking for in order to be able to make a determination.

The CHAIRMAN. Do you think that, Mr. Morrow, 80 to 100 cases is realistic for one investigator?

Mr. MORROW. No, I don't think it is realistic. No more than 40 cases for an individual might be realistic.

The CHAIRMAN. You have heard others testify that they transfer these cases from one office to another, from the office that is overloaded to an office that isn't very busy. I listened to that. Mr. Muse thought it worked all right for him out in Seattle. What do you think of it?

Mr. MORROW. Personally, I don't think too much of it. I think that if you have an unequal balance in resources and if you have more cases in one office and less cases in another office, more employees or vice versa, they possibly could go to the same concept that the Federal Labor Relations Authority was doing in the past. That was when there was an overabundance of work load in one office, they would just detail someone from another office to go to that location and spend a considerable amount of time until they worked the work load down to a size that it could be dealt with by the people on site. Then that person would return to their home base.

Now, I realize that would possibly cost more money for the agency, but when you start transferring the cases around, if I am in Dallas and I am shipping cases to Cleveland, OH and all of a sudden an investigator calls me from Cleveland saying that I am investigating your case, you know, you kind of wonder because they have indicated that they want the investigators to do more onsites. They want us to do a comprehensive investigation.

Yet, if you ship cases out of State to another office, you are immediately told there is no travel money. You can't travel anywhere.

So, you begin to do a paper investigation really, because that is the only way you can. You can't travel. You don't have the resources at your disposal if you needed to go back to the city to interview witnesses or to go back and meet the respondent's representative or what have you. So, it becomes more or less just a paper investigation.

The CHAIRMAN. And you don't like that.

Mr. MORROW. No.

The CHAIRMAN. If you look at this chart [2] over here, the blue lines indicate how many charges came in, complaints. The red lines indicate the backlog.

Now, that blue line went up, remained pretty much the same and then, in 1987, took a modest drop. The backlog goes up continually.

Mr. MORROW. Not surprising. That is for 1987.

The CHAIRMAN. Why is that?

Mr. MORROW. Well, I think that the reorganization of last year had a lot to do with the backlog growing and it will continue to grow.

The CHAIRMAN. Wait a minute. This is fiscal year 1987.

Mr. MORROW. Right.

The CHAIRMAN. That isn't last year. Well, it ended in October.

Mr. MORROW. Right.

The CHAIRMAN. The reorganization occurred when?

Mr. MORROW. The reorganization occurred last June.

The CHAIRMAN. Last June.

Mr. MORROW. Right.

The CHAIRMAN. Would that have any impact between June and October?

Mr. MORROW. If you are talking about going back to the other years, I think you would have to look at the decrease also in the number of employees in the agency. The charge receipts that are—as each year has gone by, you see the number of charges that have been filed has gone up. The number of employees for each year has diminished.

So, you have more charges coming in. You have less investigators to investigate. So, as each fiscal year goes by, your backlog is going to grow, because you don't have enough people.

The CHAIRMAN. All right. What is it going to show for 1988?

Mr. MORROW. Probably that the backlog will be higher than the pending inventory coming in.

The CHAIRMAN. And you think it is mostly the fall-off in the number of employees?

Mr. MORROW. Well, until we get to 1987. Not to 1987—until we get to the last reorganization that occurred last June when they made one significant change, and that was eliminating an intake unit and now the investigators have to spend—we calculated it out that in a given fiscal year, an investigator will have to spend 3 months minimum out of the fiscal year performing charge receipt responsibilities which takes them away from the investigator mode.

The CHAIRMAN. You approve of that change in policy, then, last year in June?

Mr. MORROW. No.

The CHAIRMAN. You do not?

Mr. MORROW. No, sir.

The CHAIRMAN. I am not sure I understand you correctly, Mr. Morrow. You think the line is going to get bigger not just because there are fewer employees. The backlog of cases is going to get

[2] See p. 169.

larger not just because of employees but because of the June change in the input policy.

Mr. MORROW. A combination of both.

The CHAIRMAN. A combination of both.

Mr. MORROW. Right. You see, as an investigator now, prior to that changeover, you had 12 months to resolve your cases.

The CHAIRMAN. I see.

Mr. MORROW. Now, you have technically about 9 months to do what you used to have 12 months to do. Also now, you have a larger case load than you had before, and the pressure now is tremendous in the district area offices among the investigators to close cases.

I go back to what I said earlier. Prior to the situation coming out with the Chairman bringing up about the 900 cases, I can truthfully say no one really looked at, cared, or really seemed concerned about whether or not an age charge was nearing its 2-year statute. The only thing was the bottom line which was close cases. Close as many cases as you can. That was the bottom line.

The CHAIRMAN. I will come back to that, Mr. Morrow.

Senator Pressler has some questions he would like to ask.

STATEMENT OF SENATOR LARRY PRESSLER

Senator PRESSLER. Thank you.

I shall be brief, and I apologize for arriving late, having four simultaneous committee hearings scheduled this morning.

Is there a backlog of cases involving native American Indians? There is no EEOC official here today from the region that covers South Dakota. However, I understand one of our witnesses was formerly in charge of the midwestern area.

I am holding a field hearing on July 21, 1988, on the problems of the Indian elderly at Pine Ridge Reservation in South Dakota and I want to thank Chairman Melcher for his permission. It will be a very thorough presentation of special problems of American Indian elderly. I will ask EEOC to provide written testimony on age discrimination and native American Indians.

In any event, is there a backlog? Is the backlog similar to cases involving non-Indians? Is there any trend here that is different in the backlog of other ADEA cases? Has there been any special report or any source of information available on this matter?

I think, Mr. Bennett, you used to be the Midwest director.

Mr. BENNETT. Yes, but South Dakota was not in my region.

Senator PRESSLER. All right. Who is in charge of offices in other areas with Indian reservations?

Mr. BENNETT. I left the agency in 1987, so I can't really speak to what is——

Mr. MUSE. Before you came in, Senator, I spoke of 70 State and local agencies that take in Title VII charges, age, equal pay, and so forth. We also fund—in addition to funding these 70 agencies, we fund approximately 40 territorial Indian rights organizations. Those are on the reservations. Those are Indian organizations, tribal councils, and so forth.

Seattle has more than any other district office. The Seattle and Denver district offices have approximately 25 of the 40 that we fund.

We fund these agencies, these tribal organizations, $25,000 a year so they can hire an EEO person to investigate charges on their reservations—many times, in dealing with private employers, as you are well aware.

In Seattle and in Denver where we work very closely together, we have one person assigned an office to train, facilitate, coordinate, and investigate, education, whatever, with that territorial Indian rights organization, 1 person for all 13 in Seattle. We train with them. We train nationwide with them, as a matter of fact. It works extremely well. Our agency does fund them.

Senator PRESSLER. There have been several cases where elderly whites have felt they were replaced by a member of a minority group to meet the requirements of equal employment. Some of these individuals have filed complaints. Is that not correct, or is that a fairly rare complaint?

Mr. GLORIA. If I may, many of the businesses that reside on or near the reservation have a public clause that says they give Indian preference. I think this is what you are referring to.

Senator PRESSLER. Yes.

Mr. GLORIA. That is allowed under Title VII. It has to be a publicly stated policy, and it becomes a defense for the employer. It is not an obligation. It is not a quota, if you will, but they will give Indian preference.

Those that work on a reservation like the Navajo Reservation—the Navajo Nation is very active in promulgating their own statutes within their territorial area, and they have Navajo only hiring practices. That is a condition of contract for Peabody Coal or Arizona Public Services to come on site to mine their resources, to use their facilities. That is a condition.

One of the biggest problems with Indian charges in general is that the reservation Indians do not come off the reservation to file with us. They are either too far away—and this is Mr. Muse's comment about the tribal employment rights organizations that we fund. I have 15 of them also.

We use them to address the issues on the reservation. We train them. We provide them money. They come to us with cases they cannot handle and defer them to us.

It also overcomes, in many States, conflicts between tribal rights and States' rights. In Arizona, we have a major problem in that area. So, we sort of become the ombudsman and make sure that Indian concerns are addressed.

For me, all of Arizona is on or near a reservation, because we have so many of them. So, we have had a very good working relationship with the tribal employment rights organizations, locally and nationally.

I met some of the South Dakota people in some of our meetings, and I think that is one avenue you might explore in terms of providing funding to these tribally directed activities which would help protect the rights.

Senator PRESSLER. Yes, I understand it becomes a very complicated matter when you have the tribal laws or the groups on or near

reservations. In terms of the cases that do come to you, would there be a similar backlog? Is there more or less or don't you know?

Mr. GLORIA. I don't think there would be any difference. Our biggest problem is that we don't get enough of them, to be very honest. We don't hear complaints from the elderly Indian on the reservation.

Senator PRESSLER. Or the elderly white near the reservation?

Mr. GLORIA. Well, even the elderly white near the reservation. In my jurisdiction, in particular, 25 percent is the highest percentage of age charges I have ever had, and most of them dealt with shutting down of facilities, not with——

Senate PRESSLER. Mr. Morrow, this question of up to 80 cases per year—was that 80 cases per 300 days or was it per year?

Mr. MORROW. Per year.

[The prepared statement of Senator Pressler follows:]

STATEMENT OF SENATOR LARRY PRESSLER
BEFORE THE
SENATE SPECIAL COMMITTEE ON AGING

HEARING ON EEOC
JUNE 23, 1988

MR. CHAIRMAN: I commend you for convening this very important hearing. Today, we recognize a valuable resource-- older American workers. Congress has fought hard to protect their right to work as long as they are able.

During the 99th Congress, we enacted a law that eliminated mandatory retirement at age 70 through an amendment to the Age Discrimination in Employment Act (ADEA). Although older workers are now protected statutorily, the specter of age discrimination and ageism still haunts our society.

Since 1985, 35 South Dakotans and thousands of other older workers in other states have contacted the Equal Employment Opportunity Commission (EEOC) to file charges of age discrimination against their employers. Thousands of older workers across our nation also have filed charges. Because of their age, many of these individuals were not considered for employment although they met the employment qualifications. Many were passed over for promotions, received lower wages than their younger colleagues, or were prematurely discharged from employment. The EEOC should have provided assistance to these individuals. However, within the past year, we have learned that this agency has allowed some claimants to lose their rights to sue under the ADEA by allowing the statute of limitations to pass. In many cases, the EEOC was responsible for this lapse. On September 10, 1987, the Senate

Aging Committee held a hearing to examine EEOC enforcement of the Age Discrimination in Employment Act. As a result of that hearing, it became clear to many of my colleagues that the EEOC had not acted promptly in processing ADEA complaints.

In December 1987, EEOC field offices allowed the statute of limitations to lapse in an estimated 900 ADEA complaints during fiscal 1987.

A subsequent detailed internal report showed that EEOC had let the statute lapse in some 1200 cases during fiscal 1987; of those, EEOC was responsible for the lapse in 894 cases. The report further showed that from October 1, 1986 through January 31, 1988, an additional 408 cases lapsed--346 for reasons within EEOC's control. Because of the EEOC error, older workers lost their right to legal redress of their ADEA complaints.

I am pleased that Congress has acted quickly and in a bipartisan manner to extend the statute of limitations for these individuals. The EEOC has mailed letters to people who potentially would benefit from the newly-extended statute of limitations.

Mr. Chairman, Congress is aware of the problem EEOC has experienced in enforcing the Age Discrimination in Employment Act. Let us not continue to focus on the past but on the future. I strongly urge the EEOC to move quickly forward to correct the identified problems.

The CHAIRMAN. So, what you are testifying to is that a change in policy last June now sets it less than 300 days where you are supposed to have the case cleared?

Mr. MORROW. No, no.

The CHAIRMAN. All right, explain it to us then.

Mr. MORROW. Well, I am kind of confused as to your question, Senator.

The CHAIRMAN. Well, in June of last year——

Mr. MORROW. The agency underwent a reorganization.

The CHAIRMAN. That is right. Now, if I understood you correctly, that was going to put more cases on, and the cases were to be cleared up in a shorter period of time. Is that correct?

Mr. MORROW. No. What I was saying was that as a result of the reorganization last June, a whole separate unit was abolished, and the investigators had to assume that function that, prior to then, there was a separate unit that only did that function.

The CHAIRMAN. Well, the function of that unit was input, was it not?

Mr. MORROW. That was to take the charges from the walk-ins, the people who come to file the charges.

The CHAIRMAN. Right.

Mr. MORROW. Prior to last June, there was an intake unit that did this.

The CHAIRMAN. All right, intake unit.

Mr. MORROW. Right.

The CHAIRMAN. That is the term.

Mr. MORROW. Right.

The CHAIRMAN. And they took down the information of the charge.

Mr. MORROW. Right. They were the ones that gathered the first information, developed the charge, and then from there the charges were sent out to the units, and then they would be assigned to investigators.

The CHAIRMAN. All right. Since that group was abolished, it placed more work on the investigators.

Mr. MORROW. Right, because the investigators now had to perform that function whereas prior to that, they just spent all of their time investigating.

The CHAIRMAN. Ms. Hannah, I believe you were the one who said they wanted the cases settled within 300 days and then the time was shortened. Is that correct?

Ms. HANNAH. Correct.

The CHAIRMAN. And shortened to what?

Ms. HANNAH. 270 days.

The CHAIRMAN. 270?

Ms. HANNAH. Yes.

The CHAIRMAN. 30 days shorter.

Ms. HANNAH. Yes.

The CHAIRMAN. Now, given the combination there, Mr. Morrow, what is this going to mean? They are obliged to settle the cases within 270 days. Investigators, presumably, are going to have the

same number of cases, about 80. Well, I guess the answer is obvious. If it was hard to do before, it gets more impossible. Is that right?

Mr. MORROW. Well, yes, in a nutshell. It is sort of like if the case assignment continuously exceeds the investigators' ability to close the cases, then it is going to affect your quality, your number of cases closed, and the amount of time that it takes you to close those cases, not to mention that it will also have a very demoralizing effect on the individual investigators.

The CHAIRMAN. Aren't you a member of the EEOC's Joint National Quality of Work Life Committee?

Mr. MORROW. Yes, sir, I am.

The CHAIRMAN. Did not that committee recently conclude a survey of agency supervisors and personnel which would include investigators and everybody else?

Mr. MORROW. Yes, sir.

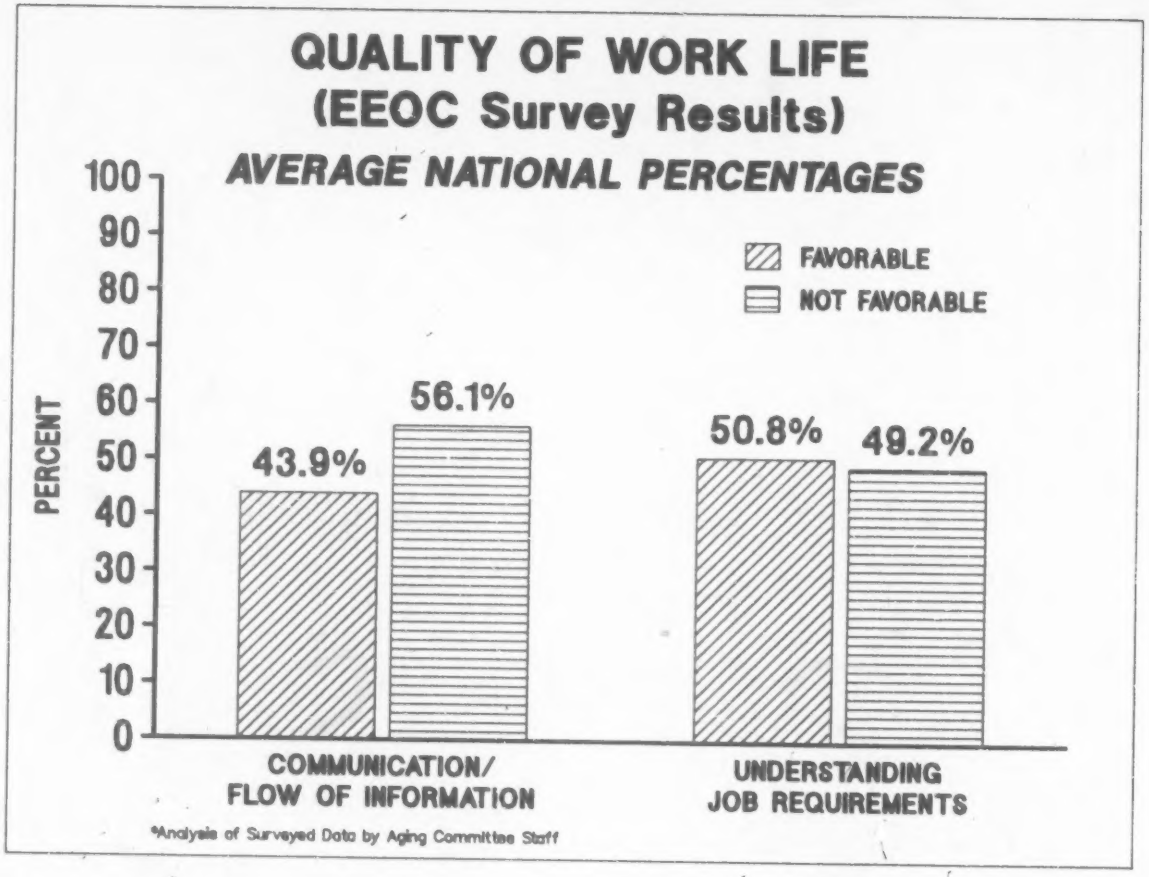
The CHAIRMAN. What did it show?

Mr. MORROW. Well, if you look at the whole situation, I think that the agency has some problems, and I think if they really were to sit down and digest this survey, they will find that the majority of the employees and, to a certain extent, the supervisors are not happy with the way things are done in the agency.

The CHAIRMAN. Well, it is our understanding that 1,800 participated in this staff analysis?

Mr. MORROW. We had something like a 56 percent response rate.

The CHAIRMAN. We have a chart there for it. That is 56 percent response.


QUALITY OF WORK LIFE
(EEOC Survey Results)
AVERAGE NATIONAL PERCENTAGES
FAVORABLE
NOT FAVORABLE
PERCENT
100
90
80
70
60
50
40
30
20
10
0
43.9%
56.1%
50.8%
49.2%
COMMUNICATION/
FLOW OF INFORMATION
UNDERSTANDING
JOB REQUIREMENTS
*Analysis of Surveyed Data by Aging Committee Staff

Mr. MORROW. Yes, I believe it was.

The CHAIRMAN. Out of those that responded, 56 percent said what? Not favorable. Is that right?

Mr. MORROW. No, that is just one particular percentage of one—just two questions that were asked. There was a total, I believe, of something like 68 questions that were asked overall. I might be off. I believe it was 68. I am not actually sure. But those are just two questions out of these 68, I believe, that were asked in the entire survey.

You had an opportunity to answer in—it was sort of like—not a multiple choice, but you had five answers that you could give for each question. The two you have up there, "communications/flow of information" and "understanding job requirements," were just two of the 60-some questions that we asked the employees and their supervisors.

The CHAIRMAN. We looked that over. It is quite a bit to look over, but it seemed to me that those two items, "communication/flow of information" and "understanding job requirements," were very key to what is going on within the Commission as a whole among all the collective efforts of all the employees and all the offices and here in Washington also.

Have we zeroed in on two key points or not, in your judgment?

Mr. MORROW. Well, I think you have. The communications/flow of information--now, you have favorable and unfavorable, but then, too, there is one thing that you don't have up there, and it is also that the same question was broken down even further as to field versus headquarters. In the analysis of it also is that the people in headquarters had a more favorable response in terms of them receiving communications and flow of information as compared to the people in the field who had to do the work. It was lower in the field.

The CHAIRMAN. In other words, that red line would have been higher and the blue line shorter if you went to the field.

Mr. MORROW. Right, because, again, it was broken down into field and headquarters.

The CHAIRMAN. But, you understand, we do include both.

Mr. MORROW. Right.

The CHAIRMAN. On understanding job requirements, and this again is both field and headquarters, isn't that—when half of the people they don't understand their job requirement, it would seem to me to be almost a case of total failure. How do you rate it?

Mr. MORROW. Well, that terminology—I hadn't thought about using total failure, but it would be somewhere around there. I think that our performance appraisal system leaves a lot to be desired at this point in time in terms of measuring how you determine whether or not an individual is a competent employee or not.

The CHAIRMAN. Well, there are 1,800 respondents, and there are roughly 3,000 employees. How many of those employees are in the headquarters?

Mr. MORROW. I think it is approximately between, I would say, 700 and 800 are in headquarters——

The CHAIRMAN. Only?

Mr. MORROW. Right, and the rest of them are in the field.

The CHAIRMAN. Only one-fourth?

Mr. MORROW. Yes.

The CHAIRMAN. That seems like a lot to me.

Mr. MORROW. I am sorry. I was being generous. I have been told it is 600 in headquarters.

The CHAIRMAN. That is one-fifth.

Mr. MORROW. And the rest are in the field offices.

The CHAIRMAN. I wouldn't call that only. I would call that relatively high: 20 percent are located here in what they call headquarters.

Mr. MORROW. That is correct.

The CHAIRMAN. The point of my question is this, was the percentage of those who responded in headquarters about the same as the percentage who responded who were in the field?

Mr. MORROW. I think that we had more responses from the field than we did from headquarters.

The CHAIRMAN. You mean a higher percentage?

Mr. MORROW. A higher percentage.

The CHAIRMAN. Well, it is alarming to me, and I don't think—you know, I guess everybody ought to interpret surveys based on a judgment, but I would say that half of a group that says they don't understand their job requirements can be described in no other way but failure.

Mr. MORROW. Well, Senator, I think you also kind of have to understand, as one of my colleagues has said, the nature of the beast that we deal with here.

When you are in a field office, you are basically at the mercy of your supervisor. Now, you could have standards that could be quite clear or whatever, but then if your supervisor comes along and tells you this is the way I want it done, then as an employee, you are caught in a catch-22 situation because if you don't do what the supervisor does, then that is the person that gives you the final rating.

So, you also have the thing from the manager's standpoint is merit pay. They get office goals which indicate that they must do so much work in that fiscal year in order for them to be considered to be satisfactory or what have you on their merit pay or for an SES which the directors are.

So, when you are dealing with a supervisor who is on merit pay and that supervisor is giving a performance standard that says at the end of the year, you must have completed X number of cases which much have come out of your unit. Then that is the only thing that that supervisor is concerned about. To me, that supervisor is concerned about I must do what I have to do in order to make my merit pay.

That means the employee becomes the person that is caught between a rock and a hard place. Sure, we can grieve the performance standards, that is, not being applied fairly or what have you, but then that takes time to go through the system and in the meantime, this employee is left at the mercy of the supervisor. The supervisor is the one that gives the final rating.

Which leads me into another thing. When you have 80 or 90 cases, just like right here, I have letters where different district directors are saying look, I need at least 15 more closures from you each month from now until September with no regard as to the

complexity of the cases, whether or not they are going to require on site, whether or not the employee can reasonably finish these cases within that time period. But, as she said, please help me make the office goals.

So, what I am saying is that one of the problems we have is that headquarters put these requirements on the district directors to meet office goals, and they get their ratings based upon what the office does. That is translated down to the supervisors who then put it on the individuals who have to go out and do the work.

That hasn't been anything prior to all of this stuff coming up with our claims about separating and determining whether or not this case is close to meeting the two-year statute. Nobody gave a damn about that before. The only thing that they cared about was how many cases could they close to make their office look good.

Now, I am not saying that all 50 district directors were that way, because you did have some that were concerned, but I think if you look at the majority, you would find that the majority paid that no attention. If you are looking at the statistic that shows that the number of cases that had slipped that had risen from 900 to 1,600 to now almost 7,000, then that should tell you that somebody wasn't paying attention or really gave a good hoot about whether or not the two-year statute was running.

The CHAIRMAN. I think it tells us an awful lot, and I think the survey confirms it.

Mr. MORROW. I think if you had the time to go through the complete survey and look at some things, it would shock you.

The CHAIRMAN. Well, that metropolitan phone book size that you have in front of you is the complete survey, isn't it?

Mr. MORROW. Yes.

The CHAIRMAN. I feel pretty good about understanding even a couple of questions out of it, though I do understand, of course, there is a lot more.

I take it that this was a very detailed survey, that it was pretty well laid out, and when 1,800 out of 3,000 respond to it, I think that is a very significant number.

Was it just volunteering to respond to it or what?

Mr. MORROW. It was volunteer to a certain extent, but then it all depends upon how persuasive your district director and union representative in each particular office were.

The CHAIRMAN. Mr. Gloria, did you use persuasion on responding to it?

Mr. GLORIA. Yes, sir. We worked with the union to make sure that all the people expressed their views. We had about a 68 percent return.

The CHAIRMAN. Well, that is about the average? Mr. Muse?

Mr. MUSE. No.

The CHAIRMAN. You didn't try any persuasion?

Mr. MUSE. No.

The CHAIRMAN. Ms. Bruner?

Ms. BRUNER. Yes, I thought I did.

The CHAIRMAN. You tried to use persuasion for people to respond to this survey?

Ms. BRUNER. Oh, yes. We met with staff and asked them to respond, the union steward and myself—the union vice president, I should say.

The CHAIRMAN. Did most? Mr. Gloria said that in his district, 68 percent responded. Is that right?

Mr. GLORIA. We were above the national average.

The CHAIRMAN. Oh, you were above the national average. The national average was 68 roughly.

Mr. GLORIA. Yes, roughly, it was that. We were above.

The CHAIRMAN. You were above the national average.

Mr. GLORIA. Yes.

The CHAIRMAN. How about you, Ms. Bruner?

Ms. BRUNER. I think we were right at the national average.

The CHAIRMAN. Mr. Muse, you didn't use any persuasion.

Mr. MUSE. No, I wasn't there, sir.

The CHAIRMAN. Do you know what happened in Birmingham or Seattle?

Mr. MUSE. No, I don't.

The CHAIRMAN. All right. Regardless of how you get people to answer one of these surveys, I think it does take a great deal of interest for people to go through them.

Mr. Morrow, am I putting more on this survey than I should? Am I crediting it more than I should?

Mr. MORROW. No, sir. I think the survey speaks for itself.

The CHAIRMAN. I mean the quality of the survey. Was it an excellent survey?

Mr. MORROW. We feel it was an excellent survey. We started on this, I think it was, last year in terms of laying the groundwork, making sure all the questions were adequate. I think Polly Meade's shop in Washington did all of the analysis and the whole bit. I think they did a real good job in terms of making sure that everyone has an understanding as to what the situation is within the agency.

What we are hoping is that the powers that be read this survey and realize that there are some changes that have to be made if we are going to get out of the situation that we are in now.

The CHAIRMAN. You refer to the group that decided what went into the survey, so I guess you could answer this question. The survey did not have any questions on work load. Was that purposefully avoided?

Mr. MORROW. Yes, in a sense. There is another study out that management did. I think it was called the "case management system" which was a study also done by Polly Meade's shop. Within that study, I think that one of the things that came out was that an ideal case load would run about 40 cases per investigator if we were going to give each case a full and comprehensive investigation.

The CHAIRMAN. Might I ask on that point, would that 40 case load be expected to be handled within 270 days?

Mr. MORROW. How do I expect that to be handled?

The CHAIRMAN. Would the 40 cases be expected to be handled in 270 days?

Mr. MORROW. The 270-day thing is something that was really not designed to be put on the employees initially, but in some of the

district directors' zest, I think they misunderstood a memorandum, because it is my understanding that a memorandum came down from Jackie Shelton indicating that the managers were supposed to report on their map or 396 the 270-day-old cases.

For some reason, some district directors or what have you misconstrued that to mean that they were supposed to change that in the performance standards for the employees.

The CHAIRMAN. That is the way you understand it, isn't it, Ms. Hannah?

Ms. HANNAH. Yes.

The CHAIRMAN. That it should be done in 270 days. How do you understand it, Mr. Gloria? What do you do as director?

Mr. GLORIA. We are honoring the appraisal system. It says 300 days, so that is what we are holding the individuals to.

The CHAIRMAN. You are still at 300.

Mr. GLORIA. Yes, but you have to understand. The clocks start at different times for everybody. The buck stops with me.

The other problem that I had was that the 270-day standard came to me 5½ months into the fiscal year. I didn't have an SES agreement until essentially March. I didn't know what the new standards were. In fact, they changed a whole bunch of them.

And this is part of the comments I made earlier about my conflict with headquarters over the whole appraisal management system. It is a fire fight. It is no longer an orderly progression of goals that relate to things that can be done in a logical sense.

Just to paraphrase Levi, if I want him to give me 20 cause findings a year, I am going to have to relieve some of the pressure on the other cases. I am going to have to manage my resources both from the objective of complexity as well as number.

The problem we have is that we have a simplistic system that is based on numbers only. That is the reason I never got 5 ratings, because I missed the numbers by one or two. It wasn't the quality of what I did. It was just that I didn't meet that magic number.

What has happened in districts is that, as he points out, the ultimate drive—and Mr. Bennett said the same thing—the drive was you shall meet these numbers. It is number driven. It is not investigation driven.

The CHAIRMAN. It is not quality driven.

Mr. GLORIA. Well, not even quality. It doesn't even consider the disparity in the case load between districts. In my district, the majority of my employers are mom and pop shops. I don't have large industrial bases like Detroit does or like Philadelphia does. Yet, they expect me to produce as many class cases as Philadelphia does. That is unreasonable.

The CHAIRMAN. I can understand that.

Well, I want to thank each and every one of you for appearing here today to respond to these questions pursuant to the subpoena from the committee.

Mr. Bennett, you are no longer employed by the Commission. I think it would be all right with you if we made your complete testimony in the case of the deposition part of the record of this hearing. Is that correct?

Mr. BENNETT. Yes, sir. I was going to ask if I could have it entered into the record.

The CHAIRMAN. The complete deposition?

Mr. BENNETT. The complete deposition. I notice there are just a couple of misspelled words I would like to have an opportunity to correct.

The CHAIRMAN. We would like to have those corrected, and we will make your complete deposition part of this hearing record.

I want to remind all of you that because of the subpoena, it is protective and the law protects you from any retaliation connected with your appearance and testimony here today. If anything does happen which you feel is retaliation for your appearance here today, we would sure like to know about it. We will try to help you. I think we can. We can put that fire out. That will be a fire storm we can handle right from here.

Thank you all very much.

The committee is adjourned.

[Whereupon, at 1:17 p.m, the committee adjourned, to reconvene at the call of the Chair.]

APPENDIX I

ORIGINAL

THE SPECIAL COMMITTEE ON AGING
UNITED STATES SENATE

Washington, D.C.

Monday, June 13, 1988

Deposition of JOSEPH STANLEY BENNETT, a witness of lawful age, called for examination by the Special Committee on Aging, United States Senate, before Elizabeth L. Wasserman, Notary Public in and for the District of Columbia, beginning at 10:00 a.m.

APPEARANCE:

FOR THE SPECIAL COMMITTEE ON AGING:

LLOYD L. DUXBURY, Professional Staff
Special Committee on Aging, U.S. Senate
G-41, Dirksen Senate Office Building
Washington, D.C. 20510
(202) 224-5364

C O N T E N T S

WITNESS	EXAMINATION BY MR. DUXBURY:
Joseph Stanley Bennett	1

E X H I B I T S

BENNETT DEPOSITION EXHIBIT:	FOR IDENTIFICATION
No. 1 through No. 7	1
No. 8 and No. 9	37

PROCEEDINGS

[Whereupon, the witness was duly sworn.]

MR. DUXBURY: Would you please mark these documents as deposition exhibits?

[Whereupon, Bennett Deposition Exhibits No. 1 through 7 were marked for identification.]

Whereupon,

JOSEPH STANLEY BENNETT

was called as a witness and, having been first duly sworn, was examined and testified as follows:

EXAMINATION BY MR. DUXBURY

BY MR. DUXBURY:

Q Would you state your full name and present residence address for the record, please, Mr. Bennett?

A I am Joseph Stanley Bennett, and my address is 6066 Morgan Court, which is in Alexandria, Virginia.

Q What is your present occupation or position, Mr. Bennett?

A I am the Administrator of the Office of Human Rights for the City of Alexandria.

Q I'm showing you a letter which has been marked as Bennett Deposition Exhibit Number 1. Would you identify that? Is that the Notice of Senate Deposition pursuant to which you appear here today?

A Yes, it is.

Q And that is a correct copy, a complete copy, of the notice that was given to you, correct?

A It appears to be.

Q All right, sir.

Before you got here today, was there anyone in the EEOC who discussed with you your appearance here today?

A No.

Q Nobody connected with EEOC?

A No, they did not.

Q Nobody discussed it? You didn't have occasion to discuss with anybody in your former --

A No. I think I might have mentioned to Ralph Soto that I was coming over here.

Q But that's all?

A That's all, but nobody in any official capacity in EEOC.

Q And your present position is with the Office of Human Rights of the City of Alexandria?

A Yes, it is.

Q And you are director of that?

A Yes, I am.

Q How long have you been director of that office?

A Since January 19th of this year.

Q And what did you do prior to that, sir?

A There was a period of time where I was retired, and prior to that I was a Regional Director with the U.S. Equal Employment Opportunity Commission.

Q Now, today, for shortness and brevity we will refer to the Equal Employment Opportunity Commission as EEOC, if that's all right with you.

A That's fine.

Q And we will refer to the Age Discrimination in Employment Act as ADEA, if that's all right, just so we understand terms. All right?

A Okay.

Q When did you first go to work for the EEOC, sir?

A I believe it was in the fall of 1983.

Q I see, and did you go to work as a regional director?

A Yes, I did.

Q In the Washington, D.C. office?

A It was the Washington, D.C. office. My region was in the Midwest and middle South of the United States.

Q What region number were you?

A That was Region 2.

Q How many regions are there?

A There were three at that time.

Q Three regions. What district offices were in your region, too, during that time that you were director?

A Chicago, Cleveland, Detroit, Indianapolis, Milwaukee, Memphis, New Orleans, and St. Louis.

Q But you did your work out of the headquarters office?

A Yes, I did. I was located in Washington.

Q At the present time does the Office of Human Rights for the City of Alexandria have andy kind of a business association with the EEOC?

A Yes, we do. We have a contract with the EEOC.

Q And what is the purpose and intent of that contract?

A It is to process complaints of discrimination, of employment discrimination within the City of Alexandria that are also jurisdictional with the Federal Government.

Q How does this involve ADEA charges that originate in your office, or are they assigned to your office by the EEOC, or both?

A For ADEA charges solely, we do not process them.

Q I see.

A We will only process age charges that are only jurisdictional within Alexandria, and for age charges that are solely jurisdictional with EEOC, EEOC processes those.

Q They don't transfer them to you?

A They do not. We do do concurrent charges. That is, if somebody alleges both a violation of Title 7 and the age act, we will process them.

Q What is the basis of the compensation between the Commission and your organization for the handling of the charges?

A We get $400 per charge that we complete, that the EEOC accepts.

Q Now in your position as regional director of Region

2, who was your immediate supervisor or superior officer in the Commission?

A When I left there it was Jim Troy, James Troy.

Q When you started was there someone else?

A Odessa Shannon.

Q I see, and then she was succeeded by Troy?

A About a year after I came there, right.

Q What is Troy's relationship to the Chairman and members of the Commission on a strata basis? Is he directly below them?

A He is directly below them. He reports directly to the Chairman.

Q I see. So the person to whom you reported then reported directly to the Chairman of the Commission?

A That's correct.

Q Now, did you and your staff conduct on-site quality investigations of the district offices which were part of your Region 2?

A Yes, we did.

Q Did you actually go to those offices and make inspections of what was going on in those offices?

A Yes, we did.

Q And I suppose that was done on a kind of regular basis, right?

A It was supposed to have been done yearly. Some offices we didn't go to because of budget considerations, but by and large we went to all of them each year.

Q And what was the purpose of these on-site investigations? What were you looking for? What was the basic purpose of them?

A Sort of multi-fold. We wanted to make sure that the offices were processing cases correctly, according to Commission regulations and procedures; to offer any kind of technical assistance we could; to make some evaluation of how well the offices were being managed in terms of case processing and other management things, like personnel

management, financial management, and so forth; and also to some extent it was a consideration in the evaluations of the district directors.

Q I see. Well, was there a written report made for each on-site inspection?

A Yes, it was.

Q And was that submitted to your superior?

A Yes, they were.

Q Were there occasions when the regional directors would have a meeting, and all of them have a meeting in the EEOC headquarters in Washington to discuss the overall status of things in the Commission, or wasn't there?

A Was that the regional directors?

Q Yes. Did you have meetings, all of you together?

A Oh, yes. All three of us were in Washington. We met frequently.

Q You met frequently, and would you --

A Probably at least once a week.

Q -- and would you frequently meet with your superior, Mr. Troy?

A Oh yes, usually several times a week.

Q I see, and I suppose in these meetings with Mr. Troy, each of the three regional directors would bring to his attention whatever matters of importance that they had discovered the their investigations of the various offices.

A Yes, either in those meetings or in individual meetings that we would have with him.

Q I see. On the average, you would meet with him once a week, on average do you thing?

A With Troy?

Q Yes --

A Oh, I would say several times a week.

Q Several times a week. Was that true of the other regional directors also, do you thing?

A Oh, yes.

Q Now you know the purpose of this oversight in connection with witch your deposition is being taken arises

out of the charge from the United States Senate to this committee, part of which is oversight of all laws that in any way right of the so-called elderly or senior citizens, and specifically includes, of course, the ADEA, which is of primary importance tot he elderly, as you know if you have been out of work -- as I know, as I have been out of work.

A Yes.

Q Well, in these on-sight inspections in your region, did you discover any particular problems in your region?'

A Oh, yes. We found problems in several offices.

Q Well, what about the statute of limitations under the ADEA? There are two sister statutes. One is a 2-year statute. The other, as you know well, is a 3-year statute. Did you discover any problems in any of these offices in your region with reference to cases running beyond those statutes, specifically the 2-year statute?

A Yes. I can specifically remember, I believe in 1986, I believe it was, in Detroit, where we found a number of cases that had exceeded the statute.

Q And when you found a situation of that kind did you report it to Mr. Troy?

A Oh, yes. I always reported things to him.

Q Always reported, so he know about it immediately after you discovered it. Is that correct?

A Sure.

Q What was the reaction, for instance, when you mentioned to Mr. Troy that there were cases that were running beyond the statute in some of the districts? What was his reaction to it?

A I can't remember any specific reaction at all.

Q Was there any specific action by the Commission with reference to that situation, following your reporting it?

A Not that I'm aware of, no.

Q Mr. Bennett, I'd like to show you what's been marked as Deposition Exhibit 2 and ask you if you could identify that, please.

A Yes. This is the field office report for the Detroit District Office dated July 16, 1986.

Q And is this a report which you made, as regional director, to the district director in Detroit?

A Yes, I did, and this was also turned in to Jim Troy.

Q Copied to Jim Troy?

A That's right.

Q Now I would like to refer you, sir, to page seven of that document In Item (c) on page seven, Item (c) about halfway down, "(c) Case Management, " you will find a paragraph that reads, "An examination of May 27, 1986 printout revealed that there are some 68 ADEA and 9 ADEA concurrent cases int he office's inventory in which the 2-year statute for filing suit has expired.

A Yes.

Q This matter was brought to the attention of Mr. Troy, was it?

A Yes, it would have been.

Q And then you had a recommendation at the bottom, that the district office on Detroit immediately identify all cases in which the time limit for filing suit has expired, and prepare a plan of action to expedite their processing."

A Yes.

Q Also establish an effective system for monitoring the ADEA 2-year limit for filing suit. What was the system for watching cases with reference to this 2-year statute of limitations? What kind of a system did the EEOC establish for that purpose for the district offices?

A I am unaware of any specific system EEOC-wide. The district offices usually had some tickler system, either as part of an automated system or as part of a manual system or both, where they would flag ADEA cases or ADEA charges and track the statute of limitaticns on them.

Q Of course, this was a very serious matter, to have

this number of cases running the statute, because those rights were lost once they ran that 2-year statute. Is that correct?

A That's right.

Q Was there any specific response by Mr. Troy or other Commission officials with reference to this situation in Detroit, following receipt of your memorandum?

A I can't remember any, no.

Q Well, do you remember at all discussing it with Mr. Troy? Do you have any recollection of that?

A No, don't have any specific recollection of that.

Q You know it was brought to his attention, however?

A Oh, yes, because we turned these in every quarter, I believe it was, every time after we did one.

Q But don't remember anything specific being done with reference to that complaint?

A No, I don't remember that. Also it would be interesting to see what the reaction of the district director was. He was supposed to have responded to this by August 29th.

Q Yes, yes. Well, was this a case of not being able to track them on the computer, or what gave rise? Is it something they would have had to do manually? Was that the real reason?

A No. In Detroit, I am familiar with the Detroit system. Detroit tracked them both on the computer and also manually, and why specifically this happened in Detroit, I don't know, because certainly Detroit did not have a staffing problem. I mean, I would say that it would be more attributed to just bad management.

Q Because they had ample staff to handle their work load, right?

A Well, they had ample staff to handle their workload plus other people's workloads, as well.

Q I see.

Now I would like to show you what has been marked as Exhibit 3, Mr. Bennett, if you can identify that for me please?

A Okay. This is a memorandum to me from Lynn Bruner, who had recently been assigned as district director in St. Louis, and the subject of the memorandum is "Kansas City Area Office." It is dated September 16, 1986, and this is her assessment of the situation in Kansas City that was pointed out to her based on the field reviews we had done in Kansas City, and also discussions that we had had with her when she had just been assigned as district director.

Q Well, this memorandum would indicate, wouldn't it, that they were having some problem with the reference to keeping track of the cases with reference to the 2-year statute?

A I don't know about keeping track of them. It would be processing them timely.

Q Yes, that's what I mean, having trouble getting it done, right?

A Right. I think if anything, this memo shows that they had a good system of tracking them. They just didn't have the staff to process them timely.

Q You feel that the Kansas City office was understaffed, I guess, with reference to their workload then?

A It was seriously understaffed.

Q And this is also the kind of memorandum that would have gone to Mr. Troy at the time, correct?

A I can't say specifically whether this one did or not, since it was --

Q It was directed to you.

A -- directed to me. I think it probably would have either been sent to him or called to his attention, because I was constantly talking to him about both the problems in Kansas City and also the serious staffing situation there.

Q Was anything ever done about the staffing problem in Kansas City during your tenure as Regional Director?

A Nothing of any great substance. There was some increase in staffing and then, at the time I was leaving, as I remember, there was some consideration of transferring cases from Kansas City to other offices.

Q I note that this Exhibit 3 is dated September 16, 1986.

A Yes, it is.

Q So that the problem must have been of some time in the making, I guess, because the staffing problem must have been of long standing, I assume.

A As I remember, to the best of mu knowledge, the whole time I was at EEOC there was a problem in staffing at Kansas City, and it just continually got worse as time went on.

Q I wold like to show you what has been marked as Deposition Exhibit Number 4, sir, if you can identify that for me.

A Okay. This is a memorandum from Jim Troy to Lee Guarraia, who is director of the Los Angeles District Office. The subject is "Fiscal Year 1986 Quality Review Report, Los Angeles," dated November 4, 1986.

Q And page 8 of that report, under the part relating to recommendations, says in part, "Particular effort should be made to identify and complete processing of aged EPA and ADEA charges so that potential rights of the charging parties are not lost through our negligence."

A Right.

Q Was this the kind of memorandum that was sent to most of the district offices, with reference to ADEA charges running the statute?

A No, that I don't remember. I must say that this is not a memorandum that originated in my region. This is from Region 3. I was generally aware of that situation in Los Angeles, though.

Q But they were having problems with processing their cases. Is that correct?

A They were having problems in Los Angeles, as I understand it, processing any cases.

Q I see.

A Age being, you know -- I wouldn't say they were similarly situated to Kansas City, but Kansas City, because of its severe staffing situation, had problems processing any cases in what could reasonably be called a timely fashion.

Q Well, on page 3 it says, "Examination of the computerized data base evidences many charges where there is no entry and many charges where the 2-year period had expired."

A Okay.

Q And that is a clear indication that Mr. Troy was aware of the problem of cases running the statute.

A Well, I am familiar with his signature, and that is certainly his signature on the front page.

Q Now, I would like to show you what has been marked as Deposition Exhibit Number 5, Mr. Bennett, and ask if you can identify that, sir. And I would like you, if you could to look at page 5 in particular -- page 3, I'm sorry. Page 3.

A Okay.

Q That also relates to the Los Angeles office, I take it?

A Yes, it does.

Q And there is a place on page 3 where they refer to the problem of charges that run the 2-year statute. Actually, I read it incorrectly in the previous exhibit, but it is this exhibit in which that language appears, where they had charges that were running the 2-year statute. Again, this is the kind of memorandum that went to you, I take it, or did it not go to you? No?

A No, this was in Los Angeles. This was not in my region.

Q This went to Troy, though, I assume.

A Let me see what it looks like.

Well, what it looks like is a quarterly -- a mid-year assessment dated April, 1986. We would periodically write up these kinds of things for every district office.

Q So it would be a report -- how many times would a report like this be made for each district office? Once a year? Twice a year?

A At least twice a year, and I'm thinking it was probably more like quarterly.

Q And these reports would all go to Mr. Troy as the superior over the districts, would they not?

A Yes, they would.

Q Because really, these reports were made for the purpose of letting the superior officer in the Commission know what was going on in the district office. Is that correct?

A That's right.

Q I would like to show you Exhibit Number 6, Mr. Bennett, which is a short memorandum dated February 13, 1987, which indicated that it was copied to you as the regional director of Region 2. Would you identify it, please, as to what it is?

A Yes. It's a memorandum from Lynn Bruner, who is district director in St. Louis, to Jim Troy, as director of Office of Program Operations. The subject is "Request by Kansas Commission on Civil Rights." It is dated February 13, 1986, and as you said, there is a cc sent to me as the director of Region 2.

Q It points out in the second paragraph, "As you know, we have a serious backlog problem in Kansas City which is almost glaringly problematic when it comes to age cases."

A That's right.

Q "We have a very large number of age cases which are approaching the 2-year statute of limitations."

A Right.

Q Obviously, the purpose of the memorandum was to inform Mr. Troy of this problem of the 2-year statute, and also to look for some relief.

A That's right.

Q Hoping that some cases could be transferred to the local Kansas City Commission, right, or Kansas Commission?

A Kansas Commission, that's right.

Q Now I would like to show you what has been marked as Deposition Exhibit 7, Mr. Bennett, and ask you if you can identify that.

A This is a memorandum from Lynn Bruner, district director of the St. Louis District, to Jackie Shelton, who was then the acting director of region 2. The subject is "Transfer of Kansas City Area Office's Cases." It is dated March 26, 1987.

Q And this is further testimony as to the backlog situation in Kansas City -- I mean in St. Louis. Right?

A That's right.

Q Do you know, was this after you left the Commission?

A I had never seen this. I was not physically at the Commission at that point. I left the Commission physically about March 15th and retired effective the end of March.

Q Is this the kind of memorandum that would be sent to Mr. Troy so that he could be appraised of the situation in the district office?

A I would certainly think so.

Q Because they are indicating that they have so many cases that they would like some assigned -- right -- elsewhere?

A That's right.

Q What was the Commission's policy with reference to assigning cases from a district that had a heavy workload and not enough staff?

A Well, the first approach would be to try to, within the district office itself, to accommodate that, which would be difficult in St. Louis because St. Louis, even though it was not in as bad a shape as Kansas City, also had a reasonable workload of its own; and then if they had been unable to accommodate that, to then try to find other offices within the region to handle cases, and I guess if that wouldn't work out, to look to other offices outside the region. But the real problem in Kansas City was not reassigning cases. That would only be a stopgap measure. The real problem there is that they were just seriously

understaffed, in light of the fact that there were some other offices that were seriously overstaffed, like Detroit, for example, or Milwaukee.

Q Why wasn't there any transfer of staff in order to beef up the staff of a district office that was understaffed and take away some of the staff from that one that was overstaffed? Why wasn't that done at the Commission?

regional directors got together and did an analysis of our own, a computerized analysis, where we determined that by reassigning staff and having a couple of selective reductions in force, that we could balance staff and balance workload and wouldn't really need additional staff. I believe that was done probably in 1985, and we were suggesting that it be made effective at the beginning of fiscal year 1986.

Q Was that brought to the attention of Mr. Troy?

A That was brought to his attention. We discussed it with him, and he told us that a reduction in force was a "non-word," that we shouldn't bring up the concept. I remember it very vividly because in a meeting -- we used to have joint meetings, I think maybe quarterly, with the Office of Management and I brought up the subject again and he told me very forcefully in that meeting that he didn't want to hear that discussed any more.

I think part of it had to do with the -- shall I call it "courting?" -- that they were doing with the union. The union was a rather difficult union to deal with, and my personal view is that the reaction of the agency generally was to cave in. The union didn't want to -- as a matter of fact, they didn't want certain cases transferred, either.

Q Well, from all we have determined from these documents, they clearly indicate that the Commission had ample warning and signals about the problem of cases running the 2-year statute, way back into early 1986, if not earlier.

A Oh, yes.

Q And they really had ample evidence that there was a dangerous situation developing, and yet they don't seem to have done anything about it. They just seem to have let it go on.

A Yes.

Q We run into this situation where Chairman Thomas, in recent testimony before a Congressional committee, said that the Commission didn't have any reason to think they had to track statute of limitation cases; they had no indication that there was anything wrong. As a matter of fact, he seems to say now that they really didn't know anything until the late fall of 1987, that there was anything -- any problem -- as to the 2-year statute, but there is ample evidence in these memoranda and others that they had ample warnings way back in early 1986 -- Detroit, St. Louis, Los Angeles. Is it possible that these warnings, these signals, didn't get to Mr. Thomas or the other members of the Commission?

A It's hard to believe, but I think it is possible. For example, the regional directors never met with him, so I don't know what he knew or what he didn't know, and the only thing we ever got back was indirectly, usually through Jim Troy. I don't remember Troy ever saying specifically that he had talked to Thomas about the age problem.

Q But it wasn't the practice of Mr. Thomas as Chairman, then, to meet with the regional directors? He didn't meet with the regional directors on any regional basis, did he?

A No, he never met with me, and I know he never met with Connie Dupree, and I don't think he ever met with Francisco Flores when he was the regional director.

Q Those were the three regional directors, you and the other two?

A Right.

Q Well, so whatever information Mr. Thomas and the other members of the Commission got had to come from Troy?

A Or possibly from some district directors, because even though he would never meet with the regional directors, he did have certain district directors that he was in frequent contact with telephonically or face-to-face.

Q Who were close friends of his, I gather, a friendly relationship?

A Well, I think that's probably what it was.

Q Prior to your leaving the Commission in 1987, do you have any recollection of any written queries or directives that went from headquarters to all field offices, raising this problem of the potential passing of the statute of limitation on age charges? Do you remember any directive to you or through you?

A I can't remember that, no. I'm not saying it didn't happen. I just don't remember it.

Q You know, we have been trying to figure out, in this Commission and the responsibility that the members have, what does the committee do about this situation where they started off admitting finally in December that there were some 900 ADEA cases that had exceeded the statute, and then it went up to 1,200, and then it was up to 1,600, and now we have ample reason to believe that it is well over 2,000, and it could be highly in excess of that number. But the first question the committee has to decide is, just why has this happened? What situation gives rise to that number of individual rights being foreclosed by the failure of the Commission to handle and process claims on a timely basis? What causes that? What do you think it is?

A Oh, that's a tough one. I'm not exactly sure why that would be. I think might be different reasons. For example, I think it would be my view in Kansas City/St. Louis that that problem was strictly one of staffing in the sense that I think that the management structure in both of those offices was very diligent about carrying out the Commission's work, and would have done so.

In Detroit, the other office that I'm familiar with,

I think the problem there was one of simply a void in leadership in the office. The district director's job was vacant there for about three years before it was filled on a permanent basis. The regional attorney, which is also a very key job in the region -- I can't even go back as far as how long that one was vacant because there were a couple of people they got in on a permanent basis but they stayed there less than a year or about a year and then left, so in terms of there being any continuing leadership in that job, that was not the case.

There were other jobs in the Commission -- key jobs, district directors or regional attorneys -- that were vacant 2 or 3 years, and I think there are some now that probably have been vacant for long periods of time.

Q Well, some prior district directors or former district directors have told us that the computer system was completely unreliable and inaccurate --

A Yes.

Q -- and that they attribute this lapse of the 2-year statute on a lot of cases to the inadequacy of the computer system, that there was just no way to track it except manually.

A Yes.

Q I know one former district director said that he had to do everything on a manual basis to track the charges in his office, for which he was responsible; that the computer system, the old CSRS system, was completely unreliable.

A Yes.

Q What was wrong with that system? Do you know why it didn't work?

A I don't know why it didn't work. I know that it didn't work. It didn't work when I came there, and it never worked the whole time I was there. As I understand it, there were entries that you could never get rid of. You would make an entry five years ago and then you would keep trying ot delete it and it would never delete. Also, I guess at the

headquarters level, it was a read-only system. All you could do, supposedly, was read what was in the data base, and even that was not dependable.

I am not sure that I agree totally with that premise, that the lack of a Commission-wide automated data base would have been the sole problem. To give an example of what I am talking about, I think it should also be incumbent upon each investigator to manage his or her workload. Most of them that I knew were very diligent about doing that, so regardless of what the automated system was, if they had 50 cases or 100 cases, they had some kind of control over that inventory, and there were usually case conferences with their supervisors where they would discuss the inventory, go over the age of it, point out particular ones that were problematic, and so forth. So it may be at a higher level you could say that because of the computer system you may not have known, but certainly when you get down to the investigator's level and the first-line supervision level, all of those things could have been known. For example, I know in Detroit that for several years prior to the new data system, the CDS system, that Detroit had an automated system that it was using, and in addition there were manual systems being used as well. I don't think, for example in Detroit, that the problem was that somebody didn't know and it may be the compliance manager didn't know, but I am sure whoever -- the investigator or investigators and possibly their supervisors -- were aware of this problem. I mean, maybe occasionally you could see where one would slip through the cracks, but not a large number and nobody being aware of it.

Q Well, any investigator assigned a number of cases would really be able to keep track of them manually, I assume, and effectively?

A Manually, and I would say that most experienced investigators, unless they had just a horrific number of cases, also had some mental picture of what their workload was.

Q Yes, yes.

Well, now the CSR system was shut down in early 1986 and replaced by what is called the current system, the Charge Data System, the CDS?

A Right.

Q The committee has received a lot of information that the field officers were complaining about the automated system, that they had trouble putting data into it, that a great deal of their time was being spent trying to make the thing work, staff time --

A Right.

Q -- and that it was just nonproductive staff time.

A That is my understanding, as well.

Q These kinds of complaints, I guess, had grown common back in 1985, 1984-1985, prior to the switch to the new system in 1986, hadn't they?

A Yes, that's right.

Q Well, what about the Chicago office? Did they have any problems that you were aware of on case management and resolution that you can recall back in, say, 1986?

A Yes, 1985, I think it was 1985 that I remember particularly where there were a lot of problems with district offices exceeding the statute of limitations on ADEA charges. It was not one of them, as I recall. Basically they were, I guess -- to sort of short-circuit the answer -- taking a lot of shortcuts in the processing of cases, not keeping good records, not making entries in the log when something happened, not using investigative plans, those kinds of things. To some extent the quality of investigations suffered. I wouldn't say that that was a complete collapse. I don't mean to paint that picture, but I would say in terms of being able to do a good job of auditing what they had done, it was very difficult to do because they just didn't keep good records or make good entries in the cases they were doing.

The other problem, the more serious problem at Chicago, was the way that I thought they were misstating some of the facts in cases they were recommending for litigation,

that they would sort of leave out parts of the investigation that may have been favorable to the respondent and emphasizing those things that would lead one to a conclusion that there was discrimination. I think it was in the 1985 report that we made some very critical comments about the unreliability and almost sort of dishonesty, I guess would be a stronger word, of the way they had presented some of the cases for litigation --

Q Well, the complaints --

A -- in 1985, and I also think the case processing, as I remember, had improved considerably in 1986, but still the other problem of the -- oh, I don't want to over -- the lack of integrity of the way they presented cases for litigation was still present --

Q Well, a lot of the complaints that the committee members were seeing prior to the initiation of this oversight related to the delay in the processing of charges, a tremendous delay, and transferring of charges to an office far away from where the parties were originally located. For instance, we have a situation of a lady in Chicago, a black lady, 55, who was laid off under a so-called reduction in force after 29 years and subsequently replaced by a younger white person. She files a complaint through the local EEOC office, hears nothing for a year and a half, writes a letter, "What's going on?" and still hears nothing, and then shortly before the 2-year statute is up she gets a form letter reminding her that it is a 2-year statute and she will have to bring her suit; and then a little while later another letter saying, "We have completed the investigation and find no cause." The individual involved knew that they didn't interview any witnesses, didn't interview her, never interviewed her, never asked her for the names of any witnesses, just indicating a complete lack of what you would call an adequate investigation.

Those were the kinds of complaints which really initiated this particular -- it wasn't initiated because of cases running beyond the statute, because a lot of people

didn't know they were running beyond the statute. But it was that kind of handling, just not completing investigations, no thoroughness of the investigation.

What were the requirements of the Commission? Was there any requirement in the manual with reference to completeness of an investigation, during the time you were there?

A "Completeness" meaning what? In time period, or --

Q No, thoroughness.

A Thoroughness.

Q That's what I mean, yes.

A There is a very elaborate compliance manual which is, I guess, really guidance in terms of processing cases and processing complaints investigations. A lot of that is really guidance, and I would say that if you followed it, in spite of the fact that a lot of that material is rather awkwardly written, that it is good guidance and if you followed that pretty much, then I think by and large that would lead to good, thorough investigations. But the pressure was always on to close a certain number of cases each year, or people were dealing with backlogs of cases and taking shortcuts.

With ADEA cases specifically, I remember investigators telling me that they had not been trained to handle age investigations and didn't feel comfortable with them, so I think it is a combination of things, why that happened.

Q Well, we have heard that same complaint about lack of adequate training in the ADEA area, that they really didn't have the necessary training qualifications to do the kind of work that had to be done to adequately process the claims.

A In 1984, I believe it was, there was a reorganization, and prior to that time the district offices had unique units that handled age cases. Then in 1984 age cases were handled by all investigators, and it was around that time period that I was hearing those comments, that people had never had the experience before, weren't familiar with the law, didn't know how those investigations would

differ from Title 7 investigations, and they were just sort of given some to do and to do the best they could.

I really don't think that the differences would be that great, but still you need to sit down with people and give them some assurance that even though this is something new, it is not really that much different that you can't make an easy transition. I would think with only a couple of days training, if you could do Title 7 you should be able to do age investigations.

Q Well, what was your analysis of the Chicago District Office situation with reference to case management, resolution of cases?

A I would say in 1985 I thought it was bordering on being ineffective. It had made some improvement by 1986, but in 1985 I would say there were some real problems. The substantive problem was really the one with the lack of integrity in the way that the cases were being presented to the Commission for litigation.

Q For their decision whether to litigate or not?

A Right.

Q I see.

Well, one of the complaints we had also, or several of them, related to this transfer of cases, where it was transferred quite a ways away, and the person to whom it was transferred or the office to which it was transferred had to handle the investigation by telephone calls or mail and so on. This is really a very unsatisfactory way to process an age discrimination case, is it not?

A Yes. I would think for almost any kind of charge, any kind of charge, that would not be a satisfactory way to do it.

Q Because you just can't do it by telephone?

A No.

Q There was information about a survey that the Commission conducted or had conducted of all their personnel in December of last year -- that is after you left -- but

there was a pretty good response, and according to that survey report over 40 percent of those responding stated that their work objectives were defined either partially, poorly, or not at all.

A Right.

Q How do you relate to that kind of a response in terms of personnel in the Commission? Was that about the way it was when you were there?

A Yes. I can't respond specifically to that because I am not familiar with the survey --

Q I understand.

A -- and I am not sure exactly what they were saying. But let me respond as best I can.

I felt that performance appraisals unduly influenced and drove many things that were going on in the Commission. To give you one example -- which I don't know to be true; I just heard it several times, and it may have been one of those kinds of comments that people circulate that wasn't true -- but I had heard several times that people had gotten large bonuses because of how well they had done on developing the CDS system. Whether that's true or not, I don't know, but they said that.

To make it more specific in terms of district offices, most of the objectives in those performance appraisals more or less related to how many cases you closed during the year. If there had to be a trade-off in closing a lot of cases, you were given some flexibility on some of the others if you closed off cases. I'm sure that was going on, as well.

So I think many people, since that was directly related to their retention in the agency and also their pay and those kinds of things, they did what the system pretty much was set up to do, and that was to get them to close cases. So that in a sense they may -- that the response that you are talking about may have been that these were people who realized that there were certain missions in the agency that needed to be accomplished in terms of objectivity,

completeness of investigations, and so forth, but there was a conflict between those kinds of mission objectives and what it really got down to, the bottom line as it related to their performance which was largely, "Close out X number of cases."

Q And that would be that you get a gold star if you close out a lot of cases, no matter how you close them out, I guess. That's about the way it looks that they were doing it. They were closing out cases just to get the record, kind of like a police quota system or something.

A Yes, I would say that's probably right.

Q You close them out, no matter how you close them out; just close them out, right?

A Yes.

Q Excuse me a minute -- oh, yes. I didn't ask you more about the CDS system --

A I'm sorry?

Q The CDS system. There was the new CDS system. We have had many, many reports that this system just isn't working right, that they can't use it.

A Correct, yes.

Q During the time that you were there, prior to your leaving, was there any indication of problems with that system?

A Oh, there were problems all along, in the sense that I sent a memo to Troy suggesting -- I think they were going to have a six-month trial period -- and suggested that --

Q For the new system?

A For the new system, and we suggested that because of all the problems in the CDS system, that we have at least a year of trial period before it became officially cut over, but I had indications all along that there were some conceptual problems in the way the system had been developed.

Early on, one of my district directors who was part of the pilot project called me to say how shocked he was when the contractor came out to his office, and seemingly had just realized some of the things that go on in district offices and what needed to be recorded in the system. He told me he had

sat down with him sort of informally and told him a lot of things that they needed to know, which he felt should have been told them early on in headquarters, that nobody had bothered to tell them about, so I was aware of that.

As I remember, when I was leaving the system was being gradually implemented at that time, and I knew there were problems of people trying to input data and destroying the whole data base and having to manually input all the data again. I think some of the transmission parts of the system that were supposed to be operational never came on line before I left. I remember one fiasco we had where we called in a large number of people -- I think they were from 706 agencies, or maybe from the field -- and then nothing ever came of it because the system wasn't ready to be implemented, and then we called them in again to train them.

So here again, perhaps there was some truth to the joke going around about people being given bonuses for developing this system, because they may have reported that everything was okay. We brought people in to train them even though the system wasn't nearly ready to be implemented.

Q Well, there is an old saying, you know, Mr. Bennett. If you are going to teach a dog something, you have to know more than the dog. Maybe the problem is that those who were ding the training really didn't know how to do it either, you know. That's part of the problem.

Can we take a short break? Is that all right with you?

[Brief recess taken.]

MR. DUXBURY: I believe we will go back on the record.

Would you please mark these documents as Exhibits 8 and 9?

[Whereupon, Bennett Deposition Exhibits No. 8 and 9 were marked for identification.]

BY MR. DUXBURY:

Q Mr. Bennett, I am showing you what has been marked as Deposition Exhibit Number 8, and I wish you would identify that, please.

A Okay. This is a memorandum from me, as director of Region 2, to Jim Troy. The subject was "First Quarter Fiscal Year 1987 396 Printouts," dated February 20, 1987, and this is in response to an undated note from Jim Troy asking us why the end of the fourth quarter 1986 pending inventory was different than the beginning inventory for the first quarter of 1987. Theoretically they should be the same. He further stated that he had mentioned several times that they should be the same, and he didn't understand why they wouldn't be the same.

In this memo we explained to him why there were some minor differences. Included in that were the actual inventories and the months of inventory by each district office in the region --

Q What does that district office report show? The differences in workload, right?

A Well, among other things it shows differences in workloads, that's right. For example, it shows that the months of inventory in Kansas City at the end of the first quarter for fiscal year 1987 was 25.7 months compared to, let's say, Detroit, where it was 5.9 months. So it shows a wide variation between district offices -- or between offices, because some of these are area offices.

Q Would you mark the page which is the copy of his memo to you? You said it was undated.

A Yes. It looks like it came off the computer, and it's the --

Q I see. Well, why don't you write at the top of it? Here's a black pen. Write at the top of it, "This is the Troy memo to me," or whatever.

A Okay.

Q Thank you very much, sir.

A Yes.

Q I am showing you what has been marked as Exhibit 9 for this deposition, Mr. Bennett. Would you identify that, please?

A Okay. Exhibit 9 is a handwritten memorandum to the file that I wrote, dated June 3, 1986. It has at the top of the page a date stamp from the Office of Program Director of the EEOC, and that is date-stamped June 4, 1986 at 3:42 p.m.

What this is, is an MFR that I wrote on the conversation that I had on June 3rd with Jim Troy in which he informed me to cease inquiring about some allegations that we had received that the area director in Nashville had interfered with two witnesses in a Federal hearing. Troy directed me to tell the district director in Memphis not to pursue the matter any further because the Chairman was facing renomination by the Senate, and that he didn't want anything — "he" being Troy — didn't want anything coming up that might be embarrassing to the Chairman at that point or that might interfere with his renomination.

Q As a result of that, did you cease that investigation?

A As a result of this, I called Walt Grabon and passed the message on to him. I must say this was the second time this had happened, because I was also told the same thing concerning Eileen Adams, who had been indicted by a Federal court for income tax evasion, three counts of perjury, and something else, and we were told not to do anything about that because the Chairman was facing renomination.

Q In the meetings that the regional directors had with Mr. Troy there must have been some discussion about the cases running the 2-year statute of limitations in some of the district offices. Do you specifically recall that?

A I seem, to recall specifically some discussion about the situation in Los Angeles, that being discussed.

Q Where they were running the statute, you mean?

A Where a large number of them had run the statute. I do recall that.

Q And that would have been back in what year?

A In 1986, I believe.

Q It is difficult to understand why the Commission would allow cases to run the statute.

A Yes.

Q Why do you think they did that? Why do you think they let it happen? Really, isn't the statute the crucial period for the processing of an age discrimination complaint? That's really the crucial period?

A It sure is. At the very minimum, even if you don't get the investigation completed, you can notify the charging party that it's running the statute.

Specifically why that happened or what the motivation was behind it, I don't know. My speculation is that just by behavior that investigators saw within the Commission, doing a good job just was not that important. Doing a volumetric job was, but doing a qualitative job just wasn't.

In all fairness, it could also be that because of the workload that those people who are diligent about doing their jobs may have been focusing more on cases where they thought there was some possibility of a cause finding, and giving lesser priority to those where, based on their preliminary look at it, they felt that there wasn't much substance to it. That may have been the situation. I just don't know.

Q But when you get up and you are running over 2,000 cases, which is --

A I mean, when I heard about that I was really shocked. I had no idea --

Q There would be that volume, right?

A Right, yes.

Q I would think that in meetings that Troy would have had with the regional directors, that he would have put emphasis on that aspect of the law because it seems to me that in every district office the 2-year statute should be the

thing that flies up when the fish bites the line, you know, and alerts people to what the problem is.

A I would have to think long and hard about it. I am not sure I can remember any conversation with Troy where quality was the subject of the discussion.

Q He wasn't interested in quality, evidently?

A No, I wouldn't say that.

Q More in quantity?

A I would say that is true.

Q Yes, yes, not interested in quality but interested in published figures, cases handled.

A And also, I think, putting on a good front for the fifth floor.

Q Yes, yes.

A I think he was, probably more than anybody, as much motivated by what appeared in his performance appraisal as anything else.

Q Because the more cases processed or closed in each district office, it made him look better?

A Right.

Q No matter how they were closed?

A Right.

MR. DUXBURY: Well, I don't have any other questions. Thank you very much, Mr. Bennett. You have been most helpful.

[Whereupon, at 11:15 a.m., the taking of the deposition was concluded.]

C E R T I F I C A T E

THE UNITED STATES OF AMERICA

IN THE DISTRICT OF COLUMBIA

I, Elizabeth L. Wasserman, Notary Public, before whom the foregoing deposition(s) was/were taken, do hereby certify that the witness(es) whose testimony appear(s) in the foregoing pages was/were sworn by me; that the testimony of said witness(es) was recorded by me and thereafter reduced to typewritten form; that said deposition(s) is/are a true record of the testimony given by said witness(es); that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition is taken; and, further, that I am not a relative of or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

Elizabeth L. Wasserman

Elizabeth L. Wasserman, Notary Public

DEPOSITION EXHIBIT
Bennett No 1
6-13-88

APPENDIX 2

UNITED STATES OF AMERICA

Congress of the United States

Notice of
Senate Deposition

To Mr. Joseph Bennett, Director, Office of Human Rights, City of Alexandria, 2525 Mount Vernon Avenue, Alexandria, Virginia 22301

Greeting:

Please take notice that at 10:00 o'clock a.m., on June 13, 1988, at Senate Dirksen Building, Room SDG 41 / Lloyd Duxbury 1st & C Sts. N.E. Wash.D.C. 20510 / Special / of the staff of the / / committee on Aging of the Senate of the United States, will take your deposition on oral examination concerning what you may know relative to the subject matters under consideration by said Special / committee. The deposition will be taken before a notary public, or before some other officer authorized by local law to administer oaths; it will be taken pursuant to the Special / committee's rules, a copy of which are attached.

Given under my hand, by authority vested in me by the Special / committee, on June 7, 1988

John McEachen

Rules of the Special Committee on Aging

of the United States Senate

Rule 1. Convening of Meetings and Hearings

1.1 Meetings. The Committee shall meet to conduct Committee business at the call of the Chairman.

1.2 Special meetings. The members of the Committee may call additional meetings as provided in Senate Rule XXVI(3).

1.3 Notice and agenda.

a) Hearings. The Committee shall make public announcement of the date, place, and subject matter of any hearing at least one week before its commencement.

b) Meetings. The Chairman shall give the members written notice of any Committee meeting, accompanied by an agenda enumerating the items of business to be considered, at least 5 days in advance of such meeting.

c) Shortened notice. A hearing or meeting may be called on not less than 24 hours notice if the Chairman, with the concurrence of the ranking minority member, determines that there is good cause to begin the hearing or meeting on shortened notice. An agenda will be furnished prior to such a meeting.

1.4 Presiding officer. The Chairman shall preside when present. If the Chairman is not present at any meeting or hearing, the ranking majority member present shall preside. Any member of the Committee may preside over the conduct of a hearing.

Rule 2. Closed Sessions and Confidential Materials

2. Procedure. All meetings and hearings shall be open to the public unless closed. To close a meeting or hearing or portion thereof, a motion shall be made and seconded to go into closed discussion of whether the meeting or hearing will concern the matters enumerated in Rule 2.3. Immediately after such discussion, the meetings or hearing may be closed by a vote in open session of a majority of the members of the Committee present.

2.2 Witness request. Any witness called for a hearing may submit a written request to the Chairman no later than twenty-four hours in advance for his examination to be in closed or open session. The Chairman shall inform the Committee of any such request.

2.3 Closed session subjects. A meeting or hearing or portion thereof may be closed if the matters to be discussed concern: 1) national security; 2) Committee staff personnel or internal staff management or procedure; 3) matters tending to reflect adversely on the character or reputation or to invade the privacy of the individuals; 4) Committee investigations; 5) other matters enumerated in Senate Rule IIVI (5)(b).

2.4 Confidential matter. No record made at a closed session, or material declared confidential by a majority of the Committee, or report of the proceedings of a closed session, shall be made public, in whole or in part or by way of summary, unless specifically authorized by the Chairman and ranking minority member.

2.5 Broadcasting.

a) Control. Any meeting or hearing open to the public may be covered by television, radio, or still photography. Such coverage must be conducted in an orderly and unobtrusive manner, and the Chairman may for good cause terminate such coverage in whole or in part, or take such other action to control it as the circumstances may warrant.

b) Request. A witness may request of the Chairman, on grounds of distraction, harassment, personal safety, or physical discomfort, that during his testimony cameras, media microphones, and lights shall not be directed at him.

Rule 3. Quorums and Voting

3.1 Reporting. A majority shall constitute a quorum for reporting a resolution, recommendation or report to the Senate.

3.2 Committee business. A third shall constitute a quorum for the conduct of Committee business, other than a final vote on reporting, providing a minority member is present. One member shall constitute a quorum for the receipt of evidence, the swearing of witnesses, and the taking of testimony at hearings.

3.3 Polling

a) Subjects. The Committee may poll 1) internal Committee matters including those concerning the Committee's staff records, and budget; 2) other Committee business which has been designated for polling at a meeting.

b) Procedure. The Chairman shall circulate polling sheets to each member specifying the matter being polled and the time limit for completion of the poll. If any member so requests in advance of the meeting, the matter shall be held for meeting rather than being polled. The clerk shall keep a record of polls; if the Chairman determines that the polled matter is one of the areas enumerated in rule 2.3, the record of the poll shall be confidential. Any member may move at the Committee meeting following a poll for a vote on the polled decision.

Rule 4. Investigations

4.1 Authorization for investigations. All investigations shall be conducted upon a bipartisan basis by Committee staff. Investigations may be initiated by the Committee staff upon the approval of the Chairman and the ranking Minority member. Staff shall keep the Committee fully informed of the progress of continuing investigations, except where the Chairman and the ranking Minority member agree that there exists temporary cause for more limited knowledge.

4.2 Subpoenas. Subpoenas for the attendance of witnesses or the production of memoranda, documents, records, or any other materials shall be issued by the Chairman, or by any other member of the Committee designated by him. Prior to the issuance of each subpoena, the ranking Minority member, and any other member so requesting, shall be notified regarding the identity of the person to whom the subpoena will be issued and the nature of the information sought, and its relationship to the investigation.

4.3 Investigative Reports. All reports containing findings or recommendations stemming from Committee investigations shall be printed only with the approval of a majority of the members of the Committee.

Rule 5. Hearings

5.1 Notice. Witnesses called before the Committee shall be given, absent extraordinary circumstances, at least forty-eight hours' notice, and all witnesses called shall be furnished with a copy of these rules upon request.

5.2 Oath. All witnesses who testify to matters of fact shall be sworn unless the Committee waives the oath. The Chairman, or any member, may request and administer the oath.

5.3 Statement. Any witness desiring to make an introductory statement shall file 50 copies of such statement with the Chairman or clerk of the Committee 24 hours in advance of his appearance, unless the Chairman and Ranking Minority Member determine that there is good cause for a witness's failure to do so. A witness shall be allowed no more than ten minutes to orally summarize his prepared statement.

5.4 Counsel

a) A witness's counsel shall be permitted to be present during his testimony at any public or closed hearing or deposition or staff interview to advise such witness of his rights, provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Chairman may rule that representation by counsel from the government, corporation, or association creates a conflict of interest, and that the witness shall be represented by personal counsel not from the government, corporation or association.

b) A witness who is unable for economic reasons to obtain counsel may inform the Committee at least 48 hours prior to the witness's appearance, and it will endeavor to obtain volunteer counsel for the witness. Such counsel shall be subject solely to the control of the witness and not the Committee. Failure to obtain counsel will not excuse the witness from appearing and testifying.

5.5 Transcript. An accurate electronic or stenographic record shall be kept of the testimony of all witnesses in executive and public hearings. Any witness shall be afforded, upon request, the right to review that portion of such record, and for this purpose, a copy of a witness's testimony in public or closed session shall be provided to the witness. Upon inspecting his transcript, within a time limit set by the committee clerk, a witness may request changes in testimony to correct errors of transcription, grammatical errors, and obvious errors of fact; the Chairman or a staff officer designated by him shall rule on such request.

5.6 Impugned persons. Any person who believes that evidence presented, or comment made by a member of staff, at a public hearing or at a closed hearing concerning which there have been public reports, tends to impugn his character or adversely affect his reputation may:

a) file a sworn statement of facts relevant to the evidence or comment, which shall be placed in the hearing record;

b) request the opportunity to appear personally before the Committee to testify in his own behalf; and

c) submit questions in writing which he requests be used for the cross-examination of other witnesses called by the Committee. The Chairman shall inform the Committee of such requests for appearance or cross-examination. If the Committee so decides, the requested questions, or paraphrased versions or portions of them, shall be put to the other witnesses by a member or by staff.

5.7 Minority witnesses. Whenever any hearing is conducted by the Committee, the minority on the Committee shall be entitled, upon request made by a majority of the minority members to the Chairman, to call witnesses selected by the minority to testify or produced documents with respect to the measure or matter under consideration during at least one day of hearing. Such request must be made before the completion of the hearing or, if subpoenas are required to call the minority witnesses, no later than three days before the completion of the hearing.

5.8 Conduct of witnesses, counsel and members of the audience. If, during public or executive sessions, a witnesses, his counsel, or any spectator conducts himself in such a manner as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of such hearing the Chairman or presiding Member of the subcommittee present during such hearing may request the Sergeant at Arms of the Senate, his representative or any law enforcement official to eject said person from the hearing room.

Rule 6. Depositions and Commissions

6.1 Notice. Notices for the taking of depositions in an investigation authorized by the Committee shall be authorized and issued by the Chairman or by a staff officer designated by him. Such notices shall specify a time and place for examination, and the name of the staff officer or officers who will take the deposition. Unless otherwise specified, the deposition shall be in private. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear unless the deposition notice was accompanied by a Committee subpoena.

6.2 Counsel. Witnesses may be accompanied at a deposition by counsel to advise them of their rights, subject to the provisions of Rule 5.4.

6.3 Procedure. Witnesses shall be examined upon oath administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Committee staff. Objections by the witness as to the form of questions shall be noted by the record. If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the Committee staff may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from a member of the Committee. If the member overrules the objection, he may refer the matter to the Committee or he may order and direct the witness to answer the question, but the Committee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify after he has been ordered and directed to answer by a member of the Committee.

6.4 Filing. The Committee staff shall see that the testimony is transcribed or electronically recorded. If it is transcribed, the witness shall be furnished with a copy for review. No later than five days thereafter, the witness shall return a signed copy, and the staff shall enter the changes, if any, requested by the witness in accordance with Rule 5.6. If the witness fails to return a signed copy, the staff shall note on the transcript the date a copy was provided and the failure to return it. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall then be filed with the Committee clerk. Committee staff may stipulate with the witness to changes in this procedure; deviations from this procedure which do not substantialy impair the reliability of the record shall not relieve the witness from his obligation to testify truthfully.

6.5 Commissions. The Committee may authorize the staff, by issuance of commissions, to fill in prepared subpoenas, conduct field hearings, inspect locations, facilities, or systems of records, or otherwise act on behalf of the Committee. Commissions shall be accompanied by instructions from the Committee regulating their use.

Rule 7. Subcommittees

7.1 Establishment. The Committee will operate as a Committee of the Whole, reserving to itself the right to establish temporary subcommittees at any time by majority vote. The Chairman of the full Committee and the Ranking Minority Member shall be ex officio members of all subcommittees.

7.2 Jurisdiction. Within its jurisdiction, as described in the Standing Rules of the Senate, each subcommittee is authorized to conduct investigations, including use of subpoenas, depositions, and commissions.

7.3 Rules. A subcommittee shall be governed by the Committee rules, except that its quorum for all business shall be one third of the subcommittee membership, and for hearings shall be one member.

8. Reports. Committee reports incorporating Committee findings and recommendations shall be printed only with the prior approval of the Committee, after an adequate period for review and comment. The printing, as Committee documents, of materials prepared by staff for informational purposes, or the printing of materials not originating with the Committee or staff, shall require prior consultation with the minority staff; these publications shall have the following language printed on the cover of the document: "Note: This document has been printed for informational purposes. It does not represent either findings or recommendations formally adopted by the Committee."

9. Amendment of Rules. The rules of the Committee may be amended or revised at any time, provided that not less than a majority of the Committee present so determine at a Committee meeting preceeded by at least 3 days notice of the amendments or revisions proposed.

TABB

DEPOSITION EXHIBIT
Bernett Ex 4
Co 893-91

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

NOV - 4 1986

DUE Thursday

MEMORANDUM

TO : Leonora Guarrasi, Director
Los Angeles District Office

FROM : James H. Troy, Director
Office of Program Operations

SUBJECT : FY 86 Quality Review Report - Los Angeles

Pursuant to our telephone conversation on Friday, October 31, 1986, I am forwarding another copy of the subject report, inclusive of the pages missing from the copy previously issued.

Since the report is so late in reaching you, I am sure that some of the problem areas have already been addressed by you and members of your staff. In your reply to the report, please inform us of those areas which have already been rectified.

MEMORANDUM

TO : Leonora Guarrasi
Director
Los Angeles District Office

FROM : James H. Troy
Director
Office of Program Operations

Subject : Quality Review - Los Angeles

The following is the report of the quality review of your office conducted January 27 through 31, 1986. The report is divided into three parts. Part I provides a summary of reviewed program and administrative areas impacting on the mission of your office. Part II provides detailed findings on your office's efforts in producing quality work products. Part III provides recommendations for corrective actions.

The operational portion of the review was directed to the Intake, State and Local, Rapid Charge and Extended Charge functions and the work products generated by those functions. The review also focused on the office's case management and case tracking systems. Because of grievances from District office personnel, inquiry was made regarding grievance processing and supporting documentation for local level decisions.

The methodology utilized for the various aspects of the review are prefaced within the findings areas.

I. Summary Findings

A. Problems and Problematic Concerns Found in FY85. Results.

Growing out of on-site reviews conducted in the Los Angeles office in FY85 and reports received in Headquarters offices, certain matters were targeted for improvement and became the District office's four objectives for FY 86. (The objectives were not issued until January 15, 1986). The following information addresses the District's status at the time of the on-site review.

1. Improve managerial oversight of Personnel Systems, and implement recommendations of the OPM review team.

No on-site review was conducted of the office's personnel system. However, the Director stated that all required corrective actions, growing out of last FY reviews, were completed and that ongoing improvements are in place.

2. Implement a plan to improve the quality of charge processing, including investigative training for compliance staff.

The office has implemented training intended to improve the quality of charge processing and work products. A training class was given in the preparation/contents of investigation memoranda. Improvement in work products is also sought through such an on the job training technique as having the EOS's present their cases before the management review group (e.g., for ELI designation, ELI progress reports, and presenting cases with cause/violation recommendations).

There was some inconsistency in charge processing procedures between the units. For example, in one unit the predetermination interviews are not to occur until after the case has been submitted to the supervisor for review. Although the reviewer recognizes the supervisor's intent, this could lead to other problems because of the movement of staff between units.

To standardize and speed up the compliance process, the office has created floppy disks containing many standardized letters and closure documents. To assist in the tracking of witnesses and assess their future value in any potential litigation, a Witness Profile Sheet was developed.

3. Develop and implement management systems that ensure individual supervisors track intermediate as well as final actions. Implement strategies that ensure 300 day old charge goals are met.

The production unit supervisors and the Compliance Managers were queried concerning their tracking system(s) and case management practices. Further, their tracking documents were examined.

The office has implemented an automated system which is generally effective in terms of tracking the assignment and closure of charges by the respective units and EOS s. However, the automated system is not evidenced to be of assistance to the unit supervisors in tracking intermediate actions.

The computer generated tracking system has a data base with 23 fields of data by which listings theoretically can be made. As a case management tool, however, one necessary data field was not consistently completed (the date of violation) and two desirable fields are not included (the date of assignment to the EOS and the projected completion date).

Each supervisor has his or her own unique manual tracking system for intermediate and final charge actions. The tracking systems are different in each of the six units varying from simple 3x5 cards with minimal information to tracking sheets which even track the age of the charge (the age of each charge is hand computed). One supervisor utilized individual charge tracking forms, within which there are task assignments and projected completion dates as agreed upon by the EOS and the supervisor.

Approaches in case management differ from supervisor to supervisor. One RCP supervisor has approximately one hundred charges assigned per EOS. [1] Generally, the charges in this unit are done in charge number sequence. The EOS'S set their own time frames for processing the charges; but, towards the end of the fiscal year, the supervisor may target specific cases for completion. Another RCP supervisor also has approximately 100 charges assigned per EOS [2]; however, this supervisor exerts tighter control on case processing by setting time frames and establishing goals which are recorded on individual case tracking sheets.

The other two RCP units operate with fewer charges assigned.[3] The case tracking logs of these two units are moderate in the amount of information tracked. However, the supervisors report that they are constantly aware of which cases are being processed because of the low assigned workload and their constant contact with the EOS'S. As of the on-site review, one unit averaged 37 charges assigned and the other averaged 43 charges.

Case management styles within the two ECP units is roughly the same. There appears to be awareness and control of production within the units. Productivity for both units, for the first two months of the 1st quarter, was approximately equal (one supervisor was on leave in December). The workload of the two ECP units was evidenced to be somewhat unequal. In one unit there were 368 charges (160 assigned). The average case load per EOS in the two units was 23 and 44 charges respectively. (In the reviewer's opinion, staff of the second unit may be adversely affected by their workload because they have most of the older charges and the office has a thrust to complete 300 day old charges.)

Review of production records for the first quarter are not sufficient evidence as to which case assignment and management approach is most productive in output of completed cases. (Review of FY 83 data, through August, might suggest that the supervisor with the loosest style had the least productive unit(s).) No assessment was made of the average processing time of charges completed by the individual units because the reviewed case files did not consistently evidence date of assignment and the automated system does not contain necessary dates. A review of the average processing time of all closed charges, as reported through the CSRS, evidenced the average closure period to be 302.2 days (based on 689 charges reported in the data base).

4. Develop/implement plan for on-site charge identification and increase the number of on-sites conducted by RCP and ECP units.

As an extension of the Agency's goal to improve the quality of investigations, an increase in the number of on-sites was dictated in all field offices. However, inquiry of LA District staff and review of case files indicate there is need for additional control of the when and why particular investigations are done on-site. From interviews with staff, it was determined that the EOS's generally determine which cases are done on-site and when. Further, although some charge file logs evidenced that an on-site investigation was conducted, there was nothing in the file to indicate any on-site investigation activity. No notes from interviews, no observations, nothing.

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[1] the unit inventory is 586 charges with 490 charges assigned.

[2]. The unit inventory is 421 charges,with 195 assigned.

[3]. The respective unit inventories are 523 and 602 charges.

B. Intake

EOS s take walk-ins on a rotational basis. The review team was informed that subsequent to the taking of the charge, the documents are submitted to the supervisor for review and approval. With mail-ins, if sufficient information is present for a minimally sufficient charge, but more information is needed, the charge is held in the 30-day file. (No charges were found in the 30 day file. As a practical matter, the supervisor states the EOS's actually hold the charges.

The 60 day files for the months of December and January (thru January 28) were reviewed. The folders held 87 total items (51 December and 36 January). Every other document was reviewed (45 total).

General comments concerning the reviewed materials are: documents are not date stamped to show when received, notes which are attached to some documents to explain or note occurrences are not dated; and there is generally no indication of supervisory review before the documents are filed in the folders. Many documents were accompanied by excellent notes, others were not; therefore, questions arose as to the propriety of Intake's lack of action.

Specific examples of problems:

January Folder:

1-2. Janet Brasher and Candy Spratt. Both walk-ins 1/14/86, Title VII forms 283 and intake notes exist for both, but the notes are incomplete. Both allege sexual harassment and retaliation. Both were laid off. Although the connection between the lay-offs and the primary part of the charges is not clear, it is also unclear why no charges were taken from either CP.

3. George Weber (Re. Times Mirror). Mail-ins 1/23/86. ADEA. Note on log states CP's attorney advised him that his allegation can only be processed as a complaint (discharged 2/1/85). Although the PCP is to go to the State FEP on 1/27, the nature of the alleged act should cause this material to be docketed and forwarded to ECP as a complaint basis for a directed investigation.

December Folder:

4-6. Daza Magdalena; Guillermina, Catacio; Peregrina, Antonia. Together, walk-ins on December 13, 1985. Title VIII. PCP's were all laid off with no reason given. Past practice was that seniority was used for lay off. Not so for PCP's who have up to four years with the company. The forms 283 are in Spanish, there is no interpretation attached and no information on what counseling was provided.

7. Grana, Ronald. Walk-in "Retaliation for filing a grievance with the personnel board" is the EOS note. We do not know what the grievance was about. If the grievance was based on a covered act, we had jurisdiction.

8. Lofton, Harold. Mail-in. 12/1/85. Title VII. Contact is employee. The letter sent to the person states we do not have jurisdiction and know of no other referral source.

9. Mathens, Sandra. Walk-in. 12/3/85. Title VIII. New charge should have been taken. Relates to initial charge (093-86-0136) filed 9/27/85.

10. Martinez, Ruben. Mail-in. 12/12/85 ADEA. PCP alleged ADEA and handicap violations. No follow-up on the ADEA allegation. No contact effort documented.

11. McCollum, Ora V. Walk-in. 12/9/85. ADEA. A charge or complaint could have been taken or the notes should have explained why not.

12. Perez, Mary. Walk-in. 12/2/85. Title VIII. The Form 283 indicates national origin as basis and referenced letters (retaliation) as issue. No reason indicated for not taking charge.

C. State and Local

There has been no State and Local (S&L) coordinator since June 29, 1985. Over the last several months, the substantial weight reviews have been conducted by one of the Compliance Managers and the certified acceptances are being processed by the Intake staff. The office is behind in execution of both types of reviews.

From the materials received from the Compliance Manager, there were 11 charges which had been reviewed by the previous S&L coordinator in June 1985. Each exhibited a completed acceptance form, prepared Letter of Determination and/or a Right-to-Sue. However, nothing else had transpired. As of December 31, the following charges were still open.

Charge Nos. 092-84-5300; 84-5408; 84-593; 84-5494; 84;5498; 84-5511' 84-5600' 84-5612; 84-5622; 85-7972, and 85-8084.

One charge (092-85-4203) evidenced a CP request for a substantial weight review and no review had been conducted. The FEP final acting occurred 10/31/85.

From Intake, the groupings of charges waiting final action by the office were pulled and examined. What was found was: One form 472 dated June 7, 1985, listing 11 charges, and 9 total pages of 472's dated September 6, 1985. The later pages listed 71 total charges.

On several occasions, the necessity for acting on the S&L final actions had been brought to the attention of LA staff members by region III. The reviewer would add that although the numbers of acceptances for the California FEPA (southern portion) continued to be reported during the last quarter of FY 85, a question must be raised as to the authenticity of the numbers.

II. Case File Reviews

The office provided a listing of charges closed in the first quarter FY 86 by the respective units. The listings evidenced 238 closures for the LA Intake, RCP and ECP units. There were also 98 closures listed for the San Diego local office. From such listings, we performed a simple random sample of closures effected in December with an approximation of 1 charge per EOS.

Of 11 LA Intake closures, 4 (36.4%) were effected in December. Of 161 RCP closures, 21, (33.9%) were effected in December. Our sample included 18 (27.7%) of the RCP. 8 (38%) of the ECP, and 4 (36%) Intake closures. Overall, 30 (33%) of the 90 LA December closures were included in our sample.

By type of closure, the sample files included 9 settlements or withdrawals with settlements, 8 no cause/violations, 1 unsuccessful conciliation and 12 administrative closures.

In addition to the closed LA files, 5 active LA files were pulled for review and 5 of the San Diego charges then in the office for District approval were reviewed.

Generally, the files evidenced procedural and substantive adherence, to quality standards. However, there were 7 closed and 1 open charge which presented substantive and/or procedural problems. None of the San Diego charges presented a problem. The charges which presented the problems are as follows.

1) One withdrawal with settlement (092-85-7310) provided $10,000 to CP; however, there was no evidence gathered to see whether there had been other pregnant females harmed by the company's practice. Further, the settlement did not include promises or representations that pregnancies would not preclude employees being considered for (e.g.) promotions.

2. One charge was closed for failure to accept full relief (09-285-0382), yet the offer tendered did not include reinstatement with back wages.

3. Four ADEA/ELI charges (with common issues and same respondent) were closed through an administrative decision not to continue processing given the age of the charges. The lead charge was filed in mid 1982 (09-82-7247). The state FEP conducted an investigation of the lead charge (same scope as the others) and issued a NC determination in mid 83. Although the supervisor instructed the assigned EOS to secure the FEP's file (mid 83), it was not done until November 85. Contrary to the FEP finding, there was sufficiency of data to have found a violation. (The other charges are 092-83-2470, 092-83-9007 and 092-84-3105).

4) One of the 10 open charges reviewed (5LA/5SD) presented a critical procedural problem. The charge (092-84-0875) is filed concurrently under Title VII and EPA. The investigation was completed, a cause LOD/LOV drafted, and the case was submitted to TMC in October 1985. TMC requested a language change in the LOV and the case was to be resubmitted. The case had not been resubmitted and the violation letter would not have issued within the two year time frame to protect CP's monetary entitlement under EPA. Only one day remained for issuance of the LOD/LOV.

III. Recommendations

The following recommendations and/or observations are submitted for your consideration in your efforts to continually improve the operation of your office. It is not suggested or intended that these recommendations address every problem area observed.

Management

1. There should be some required consistency in the information contained in the supervisors tracking systems. The systems vary from very detailed to very limited information. This hampers the supervisor's ability to manage the work flow of charges in their units. Further, this limits upper management's control of total office production.

2. In the alternative, reliance on individual manual tracking systems should be eliminated or greatly reduced through more effective usage of the automated system. The automated tracking system's data fields should be extended to incorporate the date charges are assigned, and should also include a projected completion date. Since case movement is not that rapid within the units, updates to the system can be regularized and the supervisors can be afforded additional time to manage the workload and output of their units.

3. We recognize management's efforts to update the data base with the dates of violations for EPA and ADEA changes. This effort should continue. Further, particular effort should be made to identify and complete processing of aged EPA and ADEA charges so that potential rights of the charging parties are not lost through our negligence.

4. There should be more consistency in case processing between the units. Like units do not necessarily process charges in the same manner. For example: there is a difference in the requirement as to when the predetermination interview is to be held, and there is a difference in the amount of control exercised on EOS's conducting on-site investigations.

5. There should be more consistency in management's documenting the performance of employees.

Compliance Process

1. Closer scrutiny of charge taking procedures is necessary to ensure that matters which appear to constitute minimally sufficient charges under Title VII, or that are meritorious matters under the ADEA or EPA, are not lost by the system. ADEA matters which were not taken as either charges or complaints were not evidenced to have received further review as basis for Directeds. Part of this perceived problem area is the failure to document why no actions were taken and/or the lack of sufficient notes to record the inquirer's problem or cite counseling given. We recognize the contents of the Compliance Manual (in Vol. I, Section 2) gives the impression that documentation is not necessary if no charge is taken, however, such is not the case.

2. Every effort must be made to ensure that the pending State and Local reviews, particularly requests for substantial weight review, are made in a timely manner. We further suggest that reexamination be made of contract credits given in FY85 to ensure accuracy in the acceptance rate.

3. Every effort must be made to ensure that closures effected through withdrawal with settlement request, or failures to accept full relief, if acted on as closures, do not adversely affect the rights of the charging party, or the public interest.

For Mid-year Review April '86

DEPOSITION EXHIBIT
Council No. 5
CSR 6-10-88

Los Angeles District Office

Receipts:

The incoming Los Angeles workload shows a rise of 61.2 charges per month, San Diego a decrease of 11.4. Thus far, the District Office (LA) has received 1591 charges and the San Diego Local Office (SD) has received 233 charges for a total of 1824. The respective average receipts per month for this year are Los Angeles 265.1, San Diego 38.8 and District total 304. Average receipts at the same period in FY 85 are shown as Los Angeles 204 (1224), San Diego 50.2 (301) and District total 254.2 (1525).

The comparative To Process figures for Los Angeles (FY 86 v. FY 85) for the six month periods are shown as:

LA Average: 289.5 v. 234.8, total charges 1737 v. 1409.
SD Average: 38.8 v. 54, total charges 233 v. 323.

Closures:

For the first six months of FY 86, Los Angeles completed 535 RCP and 213 BCP charges. For the same time period in FY 85, Los Angeles completed 735 RCP and 171 BCP charges. San Diego's RCP closures for the respective time periods are 257 and 174 charges.

By types of total charges processed, Los Angeles had 36.8% cases decided on merit (of which 94.9% were no cause), 12.5% settlements/successful conciliations, 11.1% withdrawals with benefits, 1.6 unsuccessful conciliations and 34.4% administrative closures. San Diego's processed charges were: 38.5% decided on merit (99% no cause), 8.2% settlements, 8.2% withdrawals with benefits, 4% unsuccessful conciliations, and 45% administrative closures.

Productivity:

For the first half of FY 86, Los Angeles' average productivity for RCP was 32 (535/16.7) and for BCP 15.3 (213/13.9). San Diego's average production (RCP) was 103 (258/2.5). FY 85 average production, for the same period, was Los Angeles RCP 33 (735/22.7) and BCP 14 (171/12.2).

Overall, the District has four fewer EOS's in FY 86 than in FY 85. Through discussions with the Los Angeles staff, it would appear that poor morale is a factor in charge production. Although slightly behind in processing assumptions, the office can still meet the Agency goals through deligent efforts.

300 Day-Old Charges:

Of the 3844 charges pending within the control of the District, 1251 (32.5%) are 300 day old charges. 28.7% (770) of the charges in RCP are over 300 days old and 51.3 (417) of the charges in BCP are over 300 days. (It is noted that 285 of the 310 charges excluded in BCP are ELI's). Sixty-four (18.2% of the 351 charges pending in San Diego are 300 day old charges.

Pending Workload:

As of March 31, the District's total workload was approximately 4323 charges. In the District Office, 152 charges were pending in Intake, 2695 were in RCP and 1123 were in BCP. The San Diego office had two pending in Intake and 351 in BCP.

At the comparative time period in FY 85, 3242 charges were in the total District workload. Los Angeles had 172 charges in Intake, 2004 in RCP and 660 in BCP.

Progress on Objectives:

The office has four office objectives for FY 86.

1) Improve managerial oversight of Personnel Systems, and implement recommendations of the OPM review team.

2) Implement a plan to improve the quality of charge processing, including investigative training for compliance staff.

3) Develop and implement management systems that ensure individual supervisors track intermediate as well as final actions. Implement strategies that ensure 300 day old charge goals are met (or exceeded).

4) Develop/implement plan for on-site charge identification increase the number of on-sites conducted by RCP and ECP units.

The office submitted work plans which were generally responsive to the objectives given. The District Office took exception to suggestions made to strengthen portions of the plans. They also provided information which addressed some of the concerns which we expressed in our suggestions. There still remains:

Re: 3) - We are still concerned with using the PC as an automated means to track and manage the office's workload, CDS is months away. There are as many manual systems as there are supervisors. The purpose of an automated system is to free-up time for the supervisors to MANAGE their workload.

The identification of and inputing of the date of violation is an important element in proper case management of ADEA and EPA charges. The recovery of monetary damages extends two years (3 if willful) from the date of the violation. Examination of the data base evidences many charges where there is no entry and many charges where the two-year period has expired.

The 300 day-old charge processing goal will not be met given the current rates of production.

Re: 4) - On-sites. The original listing of seven items was reordered. Item 7 was simply the starting point from which the determination would be reached to do an on-site. The other items were reordered and clarification was sought on two. We found the original 1, 4 and 6 okay on reordering we numbered them in the same order 1,2,3. Most supervisors did not know when the EOS's went on-site and the files gave no indication as to what was done on alleged on-sites.

Special Problems/Achievements:
Problems:

Despite the high workload in Los Angeles, the biggest impediment to expeditious charge processing is failure to properly to manage the caseload. This could be altered through better utilization of the automated tracking system.

Morale is a factor in productivity. Despite the Directors holding open staff meetings and declaring that staff can present their problems to her at any time, they are distrustful. They perceive favortism of some staff members and a disregard for their work efforts and abilities. This air was precipitated through the FY 85 ratings.

Achievements:

The office has made genuine efforts to improve the quality of potential litigation cases. Litigation recommendations have been consistently approved.

DEPOSITION EXHIBIT
Bennett No. 7
6-18-87

March 26, 1987

MEMORANDUM

To: Jackie Shelton, Acting Director
Region II

From: Lynn Bruner
District Director

Subject: Transfer of Kansas City Area Office's Cases

It is my understanding that agreement was reached between Jim Troy and Joe Bennett that some portion of the pending inventory in the Kansas City Area Office could be transferred to other offices in what used to be Region II. I would like to call this matter to your attention, and ask that whatever steps are necessary be taken to allow me to transfer as many of these cases as possible to other District offices.

As described in my memo to Mr. Troy concerning the increase in the charge processing contract for the Kansas Commission (copy attached), there are presently 1600 cases backlogged in the Kansas City Area Office at this time. What I did not indicate, in my previous memo, was the situation with which we are faced in the Age jurisdiction. Because of the severe backlogging, we are running the statute of limitation on a large number of Age cases, and in some situations, simply will be unable to process them prior to the expiration of the two year statute of limitations.

We have made every effort to assign Age cases as quickly as possible to avoid this situation. However, I was reluctant to instruct the Kansas City Area Office to assign Age cases on a totally disproportionate basis.

To illustrate, we presently have a total of 148 Age cases on which we will have exceeded the statute of limitations before they can be assigned, given our present rate of assignment, unless I instruct the Kansas City Area Office to assign these cases out of sequence. This is roughly the equivalent of a 1 year workload for three EOS's under the new quality processing standards.[1]

I Am bringing this matter to your attention for two reasons: First, to illustrate the urgency of our need to transfer cases immediately to other District offices; and second, to request guidance from you as to whether we should assign Age cases on a priority basis, in order to avoid running the statute of limitations.

I believe that if headquarters is able to approve the upward modification of the Kansas City contract, and we are able to transfer five or six hundred additional cases to other offices, we would be able to handle the Age statute problem on the remaining cases.

I would sincerely appreciate it if you could expedite a decision concerning the transfer of these charges. If transfer is not possible, I will need advice from you as to how to handle this Age statute problem.

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[1] While I have not been advised of the processing assumptions being used for staffing under the new quality procedures outlined in my SCS Agreement, and the upcoming no cause charge appeal procedure, I believe that it is safe to project that we will not be able to produce cases at the required level of quality at a rate which would exceed 45 per EOS.

DEPOSITION EXHIBIT
Bennett No 8
6-18-87

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

February 20, 1987

MEMORANDUM:

To : James H. Troy, Director
Office of Program Operations

From : Joseph S. Bennett, Director
Region II Programs
Office of Program Operations

Sub : First Quarter FY-1987 396 Printouts

In response to your inquiry as to why the workload figure at the end of the first quarter is different from the 12/30/86 pending inventory figure, we have determined that this is a result of a decision by the majority of the 396 committee. Over Region II's objections, the 396 committee decided to add the Systemic inventory to the workload report, thereby creating the 67 charge difference you observed. Ralph Soto informed you of the committee's decision prior to completing the first quarter revisions and guidance package.

With respect to your inquiry regarding the differences in 9/30/86 pending inventory over 10/1/86 pending inventory, the following explanations were submitted by our offices with their 396 reports.

Chicago : The Office reports that the fourth quarter pending figure in ECP was off by one because an ADEA closure was not counted. Accordingly, the ECP pending 10/1/86 was decreased by one.

Cleveland : Three cases closed in FY-1986 were reopened in the first quarter of FY-1987, resulting in an increase in the RCP inventory of two and an increase of one in the ECP inventory.

Detroit : The Office reports that a hard audit conducted in the first quarter resulted in an adjustment of the pending inventory figures, increasing the RCP 10/1/86 inventory by five.

Louisville: The Office erroneously deleted two cases from its workload in FY-1986 and corrected the error by increasing its RCP inventory by two. Further, a charge originally closed in FY-1986 was reopened in the first quarter of FY-1987 per a reconsideration request.

New Orleans: One charge was inadvertently not listed as pending at the end of the fourth quarter of FY-1986. The correction resulted in a corresponding increase in the ECP 10/1/86 inventory.

St. Louis : The Office reports that two charges closed in FY-1986 were incorrectly reported as pending 9/30/86. The error was corrected in the first quarter of FY-1987, by reducing the RCP 10/1/86 inventory by two.

The total difference for the Region is minus nine charges for a difference of 0.06 percent. No Region II office reports a difference greater than five charges. Further, some of the changes are not the result of error, but rather of reopening charges "closed in the previous fiscal year". Because different fiscal years are involved, the matter cannot be corrected on the 396 reports by deleting the closure actions. Since these are not new cases coming into the system, the appropriate correction under our current 396 procedures is to adjust the pending beginning of the period figures. While I understand the desire to have these inventory numbers remain immutable from one period to the other, I believe it is impossible to achieve because of human error and the reopening problem mentioned above (and which is likely to increase under the appeals procedure). This difference phenomenon is not unique to charge inventories. All systems of inventories and reporting have adjustments made against prior periods. Federal accounts and contracts are adjusted up to several years after the close of the fiscal year is reported as are annual financial statements in the private sector. One way of presentation that may help explain this fact of life to a casual reader is to footnote the numbers to explain them or to create a line called adjustments to prior period inventories. To achieve absolute immutability, we will either have to "fudge" the numbers in headquarters or expect the field to lie and cheat.

Please inform us if we may be of further assistance.

Attachment:

DIFFERENCES IN PENDING INVENTORY

OFFICE	RAPID CHARGE PROCESSING PENDING 9/30/86	PENDING 10/1/86	DIFF	% CHANGE	EXTENDED CHARGE PROCESSING PENDING 9/30/86	PENDING 10/1/86	DIFF	% CHANGE	COMBINED FUNCTIONS PENDING INVENTORY 9/30/86	PENDING INVENTORY 10/1/86	DIFF	% CHANGE
[redacted]												
[redacted]												
Cincinnati	463	463	0	0.0%	130	130	0	0.0%	593	593	0	0.0%
[redacted]												
Indianapolis	1126	1126	0	0.0%	327	327	0	0.0%	1453	1453	0	0.0%
[redacted]												
Memphis	592	592	0	0.0%	317	317	0	0.0%	909	909	0	0.0%
Little Rock	489	515	-26	-5.0%	227	201	26	12.9%	716	716	0	0.0%
Nashville	468	468	0	0.0%	212	212	0	0.0%	680	680	0	0.0%
Milwaukee	385	385	0	0.0%	182	182	0	0.0%	567	567	0	0.0%
Minneapolis	596	596	0	0.0%	0	0	0	0.0%	596	596	0	0.0%
[redacted]												
[redacted]												
Kansas City	1185	1185	0	0.0%	175	175	0	0.0%	1360	1360	0	0.0%
[redacted]												

This is a note from Jim Long to Region II me which I responded to on Feb. 20, 1987, attached.

Please review the attached printouts and give me an explanation of why the pending inventory for some offices is different on 9/30/86 (fourth quarter 396) and 10/1/86 (first quarter 396). We have discussed this numerous times and I have made it clear that the pending inventory figure for the end of one fiscal year must be the same as the pending inventory figure for the beginning of the next fiscal year.

I also would like an explanation as to why the workload figure at the end of the first quarter is different from the pending inventory figure. What is counted in one and not counted in the other?

Office	Workload Beginning Of Period (10/1/86)	Charges Received Into Workload During Period Year To Date: New Charges	New Systemic Charges	Chgs Rec'd From Defacral	Chgs Rec'd From Another HDC Office	Total	Charges Removed From Workload During Period Year To Date: Closures	Chgs Transf'd To Defacral	Chgs Trans'd To Another HDC Office	Total	Workload End of Period (12/31/86)
Chicago	2900	662	0	14	1	677	617	5	0	622	2955
Cleveland	1394	474	0	30	3	507	350	11	3	364	1467
Cincinnati	597	100	0	0	5	105	119	0	1	120	582
Detroit	934	305	0	14	0	319	273	1	0	274	979
Indianapolis	1482	264	0	22	72	358	377	69	6	452	1388
Louisville	641	43	0	125	0	168	161	1	1	163	646
Memphis	1300	222	0	0	147	369	173	0	5	178	1491
Little Rock	787	246	0	0	0	246	204	0	34	238	795
Nashville	818	224	0	0	0	224	139	0	113	252	790
Milwaukee	574	90	0	31	26	147	79	5	1	85	636
Minneapolis	596	107	0	0	3	110	48	0	27	75	631
New Orleans	1429	564	0	0	0	564	623	0	0	623	1370
St. Louis	1201	289	0	46	20	355	281	0	0	281	1275
Kansas City	1637	382	0	0	6	388	176	1	14	191	1844
Region II Total	16220	3982	0	282	283	4547	3620	93	205	3918	16849

FIRST QUARTER FY 1987 / OFFICE	INCOMING CASES: RECORD 12/31/86	RECORD 10/1/86	RECORD CHANGE	% CHANGE	STAFF AVAIL.	WO.s DARM	RECORD 12/31/86	RECORD 10/1/86	RECORD CHANGE	% CHANGE	STAFF AVAIL.	WO.s DARM	RECORD DARMOW 12/31/86	RECORD DARMOW 10/1/86	% CHANGE	RECORD INDEX 12/31/87	TOTAL RECORD INCLUDING INDEX	TOTAL STAFF AVAIL.	TOTAL WORKS DARM
Chicago	2307	2269	38	1.7%	23.6	11.7	463	479	-16	-7.5%	9.0	10.5	2770	2748	2	0.1%	182	2952	32.6	12.5
Cleveland	1122	995	127	12.8%	12.0	11.3	328	339	-17	-5.3%	9.3	7.0	1428	1318	110	8.4%	37	1465	21.3	9.6
Cincinnati	483	483	-40	-13.0%	5.0	9.7	175	130	45	34.6%	4.0	9.4	578	613	-35	-2.9%	4	582	9.0	9.0
Detroit	725	687	38	5.5%	16.3	5.3	233	233	0	0.0%	6.7	7.5	958	920	38	4.1%	14	972	23.0	5.9
Indianapolis	1003	1126	-123	-10.9%	9.0	13.4	321	327	-6	-1.8%	7.0	9.8	1324	1453	-129	-8.9%	61	1385	16.0	12.1
Louisville	512	500	12	2.4%	5.0	12.3	134	141	-7	-5.0%	2.0	14.4	646	641	5	0.8%	0	646	7.0	12.9
Memphis	649	592	57	9.6%	12.0	6.5	232	317	-85	-26.8%	5.0	9.9	881	909	-28	-3.1%	605	1486	17.0	12.2
Little Rock	539	535	24	4.7%	8.0	8.1	160	201	-41	-20.4%	4.0	8.6	699	736	-37	-2.6%	96	795	12.0	9.2
Nashville	571	448	33	7.3%	4.7	12.8	296	212	24	11.3%	4.0	12.6	737	680	57	8.4%	53	790	8.7	12.7
Milwaukee	449	385	64	16.6%	7.6	7.1	181	182	-1	-0.5%	5.0	7.8	630	567	63	11.1%	1	631	12.6	7.0
Minneapolis	631	595	35	5.9%	2.0	37.9	0	0	0	0.0%	0.0	0.0	631	595	35	5.9%	0	631	2.0	37.9
New Orleans	993	1022	-7	-0.7%	21.0	5.7	313	335	-22	-6.6%	10.0	6.7	1306	1357	-29	-2.2%	54	1360	31.0	6.1
St. Louis	965	934	32	3.4%	11.0	10.5	180	160	20	12.5%	5.0	7.7	1146	1094	52	4.8%	121	1267	16.0	11.0
Kansas City	1298	1185	103	8.7%	6.0	25.8	151	175	-24	-13.7%	4.0	8.1	1439	1360	79	5.8%	405	1844	10.0	25.7
REGION II TOTAL	12098	11775	373	3.2%	143.2	10.1	3061	3211	-150	-4.7%	75.0	8.7	15349	14926	223	1.5%	1633	16982	218.2	10.7

DEPOSITION EXHIBIT
Bennett No. 9
6-13-88 aw

RECEIVED
1986 JUN -4 PM 3:42
MSPB DIRECTOR CPO

June 3, 1986

In a conversation today, Jim Troy told me to direct Walt Bratton to cease gathering information concerning Ronetha Miller-Perry's interference with the witnesses in the James Brown hearing before MSPB. Two witnesses, Bonnie Felton and Ann Cales, testified that Ronetha Miller-Perry had contacted them shortly before the hearing on behalf of James Brown. Felton testified that Perry threatened her by saying that Brown's attorney would drag up embarrassing things about Felton's personal life in the hearing if she gave adverse testimony against Brown. Cales testified that Perry tried to play up to her sympathies by saying that Brown was distressed and suicidal and she would ~~be responsible if he harmed himself~~ because of her testimony. Both these witnesses testified to this in the hearing.

Troy wanted Bratton to cease his information gathering because he believed Miller-Perry could ~~create~~ create some political embarrassment during the Chairman's renomination process and could do the same in the Memphis District. He also felt she could allege discrimination since the people who Bratton has initiated action against in Memphis are all black. (I don't think this is so, as I remember he requested a white during the probationary period.) Troy is also aware of the action being considered against Allayne Adams, a white attorney in Memphis. Troy also believed Miller-Perry would pursue some of the allegations she made in a package of the material she sent to Troy (approx. last summer as I remember). I have never seen the material; Troy has mentioned it on several occasions. From the brief remarks

Irving has made on the subject, it appears that
Abt has made allegations of some sort against
Mary Jenny and Hennenberg.

I called Gruber and did as Irving directed. Gruber
said he would but not started gathering any
information and appeared upset that he would
not be permitted to do the right thing.

Joseph D. Bennett

APPENDIX 3

NATIONAL COUNCIL OF EEOC LOCALS NO. 216

American Federation of Government Employees (AFL-CIO)

"Progress through Education and Political Action"

EDWARD A. WATKINS
President
(New York District Office)
FTS 264-7164

RONALD CRENSHAW
1st Vice-President
(Denver District Office)
FTS 564-1306

ROSETTA PRITCHARD
2nd Vice-President
(Chicago District Office)
FTS 353-0819

LEVI MORROW
Treasurer
(Dallas District Office)
FTS 729-7083

FLORINE B. GOODLOE
Secretary
(Jackson Area Office)
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National Headquarters
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(212) 264-7164
Reply to above, unless otherwise noted.

Statement Of
Edward A. Watkins
President, National Council of EEOC Locals #216
American Federation of Government Employees, (AFL-CIO)

Oversight Hearing
Before

Senate Special Committee on the Aging

On

The Federal Enforcement of EQUAL
Employment Opportunity Laws
June 14-15, 1988

Mr. Chairman, and members of the Committee. I am Edward A. Watkins, President of the National Council of Equal Employment Opportunity Commissions locals #216, American Federation of Government Employees (AFL-CIO) representing over 3,000 EEOC workers. I am please to be asked by the Committee to submit on behalf of the Union, a statement before the Congress on the state of our agency.

Mr. Chairman, I hope, you will call upon the Committee to ask some hard questions of the Chairman and Commissioners of EEOC. The actions taken by this Administration in regard to the EEOC can only lead us logically to conclude that this Administration wants to turn EEOC into a cosmetic paper-processing agency rather than an effective Law Enforcement body that can fulfill its legislative mandate.

My members, as employees, are deeply concerned that the Chairman's established production and performance standards have the effect of denying complainants their full rights under the law. We believe the Commission should maintain a true and steady course in the direction prescribed for it by the Congress

regardless of the philosophy of any Administration in power. Since 1980, the Commission has been required to implement production standards which emphasize quantity while diminishing quality, and has been required to maintain staffing levels which bear no relationship to its increasing caseload. The Congress to some degree, shares responsibility for the problems of the EEOC because it has failed each year to adequately fund and staff Civil Rights enforcement. This has allowed the Administration to carry-out its regressive policies in the areas of enforcement and litigation, resulting in over 60,000 backlogged cases, and has caused more than 1,000 Age Cases to miss their statute of limitations for filing suit in Federal Court.

In the area of employee performance appraisals, the Commission has instituted a system which has made the processing and investigation of charges of discrimination a virtual paper pushing numbers game. Production standards have steadily increased as the work load backlog grew and the staff remained constant. In FY 1981 production standards for Managers were raised by 10% or more. This meant supervisors and Directors were judged according to the number of individual case closures per investigator which, in turn, resulted in subsequent pressures placed on employees to produce more in order to receive satisfactory evaluations. The substantive quality of the investigations conducted suffered, as did the relative number of discrimination findings, settlements, and other tangible benefits to the public. In April of 1982, an arbitrary new system required that EEOC employees close a certain number of cases in order that no more than a small percentage of charges remain open past 300 days in any office. In July, 1988, the new standards for managers reduced the time frame to 270 days, which is imposed downward on employees. The effect of this production system has been to encourage employees to bring even complex cases to speedy close rather than pursue a full and lengthy investigation. The net result is more no cause findings and administrative closures without the benefit of a proper investigation. Meeting the arbitrary numbers became a priority which overrode the enforcement mandate of the agency because Office Directors would live or die by the numbers they produced. EEOC's own General Counsel has recognized the fact that this system jeopardizes the effectiveness of the Agency. In an internal memorandum dated August 25, 1983, EEOC General Counsel David Slate stated:

> The current standards seem to fail altogether to provide for District Office law enforcement functions, and actually appear instead to create substantial disincentives to those functions. An unfamiliar reader of those standards, in fact might even think the Commission was in the business of rapidly manufacturing objects called "charge closures" instead of being in the business of enforcing antidiscrimination laws.

Thus, the difficult choice our members, i.e., investigators, will have to face is to risk disciplinary action by competently investigating cases or to quickly dispose of those cases in order to receive a satisfactory appraisal and be able to maintain their jobs.

Severe staffing shortages is another critical area. In the summer of 1981, the Office of Management and Budget (OMB) reduced EEOC's staffing ceiling, causing the layoff of 287 employees.

Almost all of these were clerical employees crucial to efficient operations. Subsequently, there were threats of other layoffs which, though not carried out, resulted in increased attrition of dedicated agency employees. In 1986, The Union and Management negotiated an agreement which piloted a special leave without pay program. Employees volunteered to accept leave without pay saving the agency over $100,000, in order to avert an employee furlough. The ironic part is that the agency found the monies to avoid the temporary layoff, and at the same time brags about how they paid for computer systems not authorized in the budget. As far as we are concerned, its the employees that paid for these systems. Here we go again in July, 1988, and the Agency is once again threatening employees with another furlough for three days and asking them to volunteer their pay, while management continues to waste monies on non-essential travel and training. The out look for FY 1989 appropriations looks bleak as well. The agency reports that we received between both houses of Congress, a $17.7 million total reduction in its proposed appropriations. These reduction levels will force the EEOC to reduce its staff by nearly 300 and reduce other costs from FY 1988 levels (see attachment A.).

Another area of concern to our members is that the public, whose charges are handled by State and Local agencies, are being denied

the assurance of quality, thoroughness, and fair treatment by current EEOC funding and work sharing procedures. EEOC, at one time, reviewed the substantive quality of each and every case processed by State and Local agencies. However, in October of 1981, EEOC instituted new procedures that allowed a majority of State and Local agencies to be exempted from case review by EEOC. EEOC now accepts and pays for the majority of cases closed by State and Local agencies, "sight unseen" and only reviews a case on rare occasions, generally when the charging party request it to do so. The new Determination Review Program exempts all no cause cases filed by charging parties with these State and Local FEP agencies. In addition, State and Local agencies are being paid for some age cases in violation of their Charge Processing Contracts, even when they do not process them within 18 months from the date of violation.

[illegible], I have tried to succinctly point out areas of Administration decisions made by the Office of Management and Budget and the Commission's management itself, that hamper my members' ability to enforce fair and equal employment practices. But as these problems have arisen, the Union has not been inactive.

It was a complete surprise to hear in the Chairman's testimony that he was responsible for the Quality of Work Life program coming to fruition in EEOC. Nothing could be further from the truth. The Union was forced to drag the agency into the 20th Century and accept the fact that something had to change at EEOC. The Chairman wants to take credit for a program he has not fully supported or adequately funded. The QWL survey was a program demanded by the Union and finally reluctantly agreed to by the Management members of the QWL Joint Committee. The results of that survey was a startling revelation for employees as well as the Senate Age Committee, clearly indicating some things were wrong at EEOC. AS of July 7, 1988 the Office of Performance Services, which houses the Quality Assurance, Training and QWL support staff was abolished and transferred to Office of Program Operations. It is the Union's belief that this is a result of the Chairman's anger that the QWL survey had been released to the Senate Committee. The Chairman to date has

failed to support such concepts as Flexitime, Upward Mobility, quality training, Leave Sharing Program, or to commit itself to an Agency Affirmative Action Plan.

Another area of concern is EEOC's ability to assure fair employment practices with Federal Agencies. EEOC itself has recognized that its effectiveness in this area is undermined by a lack of enforcement authority with regard to individual/class complaints and agency affirmative action plans. While EEOC has called for an expanded role and increased powers, it has not recognized, let alone address, present critical staffing shortages in its Federal Sector Programs. EEOC has published a proposed part 1614 that fundamentally restructures federal sector equal employment opportunity complaint processes, at the same time that the House is proposing a bill to reform the system. EEOC proposes to, in most instances, deny federal employees the right to have an EEOC hearing on his/her dissatisfaction with Respondent Agency's proposed disposition of the EEO complaint.

This will in effect deny due process rights for Federal employees. If these changes are approved and the regulation is enacted, the entire federal sector EEO process will become meaningless for the majority of complainants. The hearing by an administrative judge is the only step in the process where the complaint is reviewed by a thorough, objective and neutral official. With agency self-investigating and self-adjudicating the complaint, there are inherent problems. In an EEOC study conducted during a recent five year period, agencies rejected an average 45.6% of findings of discrimination recommended by the hearing examiners while accepting an average 92.3% of the recommended finding of no discrimination. At whatever stage, the right to a hearing must remain a part of the system. Based upon the experience of most administrative judges, the investigations conducted by the agencies are not thorough enough to reach a decision. Frequently, additional relevant material facts are obtained during the hearing. If proposed regulation 1614 is enacted, the Office of Review and Appeal will decide the majority of cases on the basis of a paper appeal rather than the introduction and credibility testing of viva voce testimony. Not only will this produce further delays in processing the complaint, but also the agencies will object to being charged for

each and every additional investigation which are not within the agency's span of control.

EEOC's proposed regulation also plans to reduce by regulation the Statute of limitation on federal sector Age Discrimination in Employment Act (ADEA) actions eliminating the six year statute of limitation under Lehman v. Nakshiuan, 453 U.S. 161 (1981), to a two year statute of limitations.

But as these problems have arisen, this Union has not stood idly by. We have attempted to have a constructive relationship with Management. We bring our day-to-day knowledge of enforcing civil rights to the bargaining table and to those who have the power to act. But ours has been a voice crying in the wilderness. The disastrous production standards and time frames which have resulted in dismissal of meritorious cases were imposed unilaterally. Increases in no cause findings shall continue to spiral upward because of lack of quality investigations. Reports coming into the Union confirms that it takes over 400 days to produce a cause finding of discrimination, which means we are only able to produce large numbers of no cause findings or administrative closures under the present performance system. In this case and in others, the Commission has failed to recognize union representatives and refuses to deal with them in good faith. Of course, we have taken the actions that have been necessary to defend the employees we represent. The past year we have witnessed an increased number of unfair labor practices charges filed against management. We are being forced to arbitrate more grievances than ever before, many of which are employee challenges to the Performance Appraisal System. Although those whom we represent can only be demoralized by the actions of Commission management, they will continue to perform in a professional manner. They will continue to do this despite the threat of a Reduction In Force in FY 1989 (attachment B), the current Nation-Wide Freeze on hiring and promotions, and an assembly-line unprofessional approach to law enforcement. The real tragedy here is that the public is being denied the services to which it is entitled. We all know that the problem of discrimination in employment has not gone away. Minorities bear a disproportionate share of the unemployment burden, and women

earn substantially lower wages than their male counterparts. We believe that it is necessary for Congress to act to remedy the staffing and budgetary problems of the EEOC. Without such action, the mandate of Congress cannot be carried out and the public will not receive effective and timely quality service. Below, are some recommendations, we would like to make to the committee for consideration:

1) The procedural and remedial provisions of the ADEA and Title VII should be amended to provide consistency and the broadest possible protection against discrimination. Neither Title VII nor ADEA rights should be subordinated because the procedural provisions necessitate more rapid processing of one rather than the other. Similarly, if ADEA victims are entitled to liquidated damages because they have been wilfully subjected to discrimination, a uniform enforcement policy demands no less for the victim of a willful Title VII violation.

2) Supplemental Appropriations in the amount of $2 million is necessary to avoid a three day furlough.

3) Budget and Staffing for FY 1989 needs to be reviewed by the oversight committee and appropriations committee.

4) No Federal Funds should be permitted to be used by the Agency to implement changes in the Federal Sector EEO procedures until approved by the appropriate committees of Congress.

5) Mandatory funds established for training of all enforcement personnel in ADEA and other statutes.

6) Purchases for the Agency's computer systems should be restricted until GAO issues its report on the Charge ~~Processing~~ Data Tag System

This completes my statement. I will be happy to answer any questions you may have in the future.

Who	FY-86 problems identified by the on-site review team	Program Analyst Comments On FY-86 On-site Report	Compliance w/ FY-86 Revised Review Format	Outstanding Problems from the FY-85 Year-end report	Problems identified by the Office of Personnel	Problems identified by the Office of Audit
Dallas 4/7/86	Intake EEOs are not doing Substantial Weight Reviews at all. The reviews are being conducted by State and Local Coordinators. (pg. 8) Problem with case file reviews - of investigations were found to be deficient (pgs. 2-6) Supervisors were not giving EEOs specific due dates for completion of charges. (pg. 3) **Potential Problems** Supervisors rather than EEOs should make the determination as to whether an on-site should be conducted or not (pg. 8) Supervisors and Compliance Manager could not obtain statistical data (quickly i.e., reports from the issue tracking system are not prepared in a consolidated report like Compliance Managers' and supervisors can. (pg 2)	Staging III needs to establish time-frames for Dallas to implement Substantial Quality and Weight Review referenced on pg. 8 of this report. There should be a statement included indicating that Dallas' office specific objective #4 had not yet been completed. (pg. 1) Request Dallas to assure that all performance plans have been implemented and end-points conducted (pg. 2)	The Dallas report does meet the revised Quality Review format requirements. Comments on the EEO management areas have been omitted.	The on-site review report does not refer or mention this item which was listed in the year-end report: Correct counting of Violation Age Closures The on-site report indicates that all other year-end problems have been corrected.	Personnel did not conduct a review of the Dallas DO during FY-86.	Audit did not conduct a review of the Dallas DO.
Los Angeles 1/27/86	Inconsistency in charge processing procedures between units (pgs. 2 & 8). Eliminate manual case tracking system (and replace w/automated case tracking system. (pg. 2 & 8) Simplify and complete processing of Legal EPA and ADEA charges so that (potential CP rights will not be lost through EEOC negligence. (pg. 8) More consistency required in management documenting the performance of employees (pg. 8) Closer scrutiny of charge taking (procedures (pg. 9) Ensure that pending State and Local (reviews and Substantial Weight Reviews (are conducted timely. (pg. 9) Reconsider contract credits given in (FY-85 (pg. 9).	The LA DO received their Office Specific Objectives on 1/15/86. The on-site review occurred on 1/27/86. This review should have been postponed to allow the DO ample time to implement their (four (4) improvement projects. Although the LA DO was to "improve managerial oversight of personnel functions and implement recommendations (of the EPO review team" a review of the Personnel System was "NOT" conducted (pg. 7 A follow-up review needs to be scheduled (for the Los Angeles District Office to (assure that the deficiencies listed (in Column B have been corrected as well (as the eight personnel problems (identified in the FY-85 year-end (report and the five FY-86 Improvement (Projects.	Although it is clear that an overview and Executive Summary has been included in this report, the subtitles have been omitted. Otherwise, the format appears to be adequate. Required action have been distinguished from recommended actions.	Year-end report indicates eight (8) personnel related problems required correction. The on-site report indicates that all corrective personnel actions were completed and that on-going improvements were in place per the LA district office.	Personnel did not conduct a review during FY-86.	The Office of Audit contacted an unannounced audit of the L.A. District Office imprest fund and travelers check on 11/12/85. Discrepancies found: No documentation was available which indicated that the cashier maintained an informal record of payment made from the imprest fund. No alternate cashier had been appointed. Duplicate keys to the cash box and the safe's combination were not kept by the Director and Chief of Support Services in a required sealed envelope which were to be kept in a secure location. According to Lee Guerrero's memo of 12/16/86, the deficiencies listed above were corrected.
	Ensure that closures effected thru with-(drawal w/settlement request or failure (to accept full relief.... does not (adversely affect the rights of CP (pg. 11).					

Ivan (see JT)

Summary of Problem Areas w/in Offices '86

OPO/FMP-W Attach B 3 of 4

"F"

THE EEOC'S PERFORMANCE IN ENFORCING THE AGE DISCRIMINATION IN EMPLOYMENT ACT

FRIDAY, JUNE 24, 1988

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, DC.

The committee met, pursuant to recess, at 10 a.m., in room 628, Dirksen Senate Office Building, Hon. John Melcher [chairman of the committee] presiding.

Present: Senators Melcher, Chafee, and Durenberger.

Staff present: Max Richtman, staff director; Jim Michie, chief investigator; Ron Kader, investigator; Jennifer McCarthy, professional staff; Lloyd Duxbury, professional staff; Larry Atkins, minority staff director; Laura Erbs, minority professional staff; Kelli Pronovost, hearing clerk; and Dan Tuite, GPO printer.

OPENING STATEMENT BY SENATOR JOHN MELCHER, CHAIRMAN

The CHAIRMAN. The committee will come to order.

Let me first of all apologize for the late start this morning. We had a vote at 9:30 which just concluded.

This is the second day of our hearings on the performance of the Equal Employment Opportunity Commission and how they are dealing, handling, and enforcing the Age Discrimination in Employment Act.

Today, we are going to hear testimony from two witnesses from the General Accounting Office and three witnesses from the EEOC, including Chairman Clarence Thomas.

Yesterday, this committee heard from a group of current and former managers of the Equal Employment Opportunity Commission, and they told us about a number of problems that are plaguing the actions and the performance of this agency. An example of this concerns age discrimination charges and complaints, expiring because they were permitted to exceed the statute of limitations. We learned that this is not a new phenomenon at all.

EEOC officials here in Washington would have us believe or they seem to be saying that this is something that just sort of exploded on them without their realizing it was coming. Rather, we learned that the headquarters share of the Equal Employment Opportunity Commission had received repeated warnings from several field offices that ADEA charges and cases were exceeding the statute of limitations as early as January 1986.

Witnesses also told us that the agency's 10-year-old multimillion dollar computerized charge tracking system has continuously suffered from serious flaws, and these flaws make it difficult, if not

impossible, to track the thousands of age discrimination cases that are filed every year.

We also learned that employees in the agency's 48 field offices are under tremendous pressure to meet quotas, that is, numbers of cases that they handle or complaints that they process. In addition, we heard that complaints frequently are shuffled between field offices which can be up to hundreds of miles apart and require then the investigations to be done by telephone or the mails.

We heard of the serious need for additional training for the EEOC's investigators, and critical staff imbalances between field offices where some are overstaffed and some are understaffed.

That brings us to this morning's hearing. The General Accounting Office will provide us some information. An expert from the GAO will present his analysis of the enforcement data provided by the Commission to this committee in March under a Congressional subpoena. That analysis is contained in a report that the committee is making public today.

A second General Accounting Office analyst will give us a progress report on a detailed evaluation of why the Commission's computerized case tracking system has failed to do its job. Our third and fourth witnesses today are the directors of two district offices whom Senator Heinz, the ranking member of this committee, invited. Our final witness today will be the Chairman, Clarence Thomas, who will give us a progress report on the agency's compliance with the Age Discrimination Claims Assistance Act which was signed into law on April 7.

This act stemmed from legislation I introduced, and we discussed that yesterday, and I won't go into detail about it. It just extends the statute of limitations for an additional 18 months for those people whose claims, whose complaints, had expired under the statute of limitations while in the possession of the Equal Employment Opportunity Commission.

I know that, overall, what we are after here is to find out what can be done now to rectify the inadequacies of the operation of the Commission. I suppose it is fair to say we are looking at what needs to be done with the computer system, what needs to be done about staff levels. The Chairman of the Commission feels that the funding has been too low.

Then, I believe we have to review just the overall management policies in order to make sure that what Congress has mandated as the Commission's responsibilities can be met.

[The prepared statements of Senator Melcher and Senator Grassley follow:]

JOHN MELCHER, MONTANA, CHAIRMAN
JOHN GLENN, OHIO
LAWTON CHILES, FLORIDA
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WILLIAM S. COHEN, MAINE
LARRY PRESSLER, SOUTH DAKOTA
CHARLES E. GRASSLEY, IOWA
PETE WILSON, CALIFORNIA
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ALAN K. SIMPSON, WYOMING
MAX I. RICHTMAN, STAFF DIRECTOR
G. LAWRENCE ATKINS, MINORITY STAFF DIRECTOR

United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

Opening Statement

SENATOR JOHN MELCHER

Chairman

Senate Special Committee on Aging

June 24, 1988

Good morning. On behalf of my colleagues on the Senate Special Committee on Aging, I'd like to welcome all of you to this second hearing into the performance of the Equal Employment Opportunity Commission in enforcing the Age Discrimination in Employment Act.

Today, we will be receiving testimony from two witnesses from the General Accounting Office and three witnesses from the EEOC, including Chairman Clarence Thomas.

Yesterday, this Committee heard from a group of current and former EEOC managers and employees about a number of problems plaguing this crucial agency. Their testimony was, in my opinion, both revealing and alarming.

For instance, regarding age discrimination complaints expiring because they've exceeded the statute of limitations, we learned that this is not a new phenomenon, at all, as EEOC officials here in Washington would have us believe. Rather, we learned that EEOC Headquarters had received repeated warnings from several field offices that charges and cases were exceeding the statutes of limitations as early as January of 1986.

Witnesses also told us that the agency's 10-year-old, multi-million-dollar computerized case tracking system has continuously suffered from serious flaws. These flaws make it difficult, if not impossible, to track the thousands of age-discrimination cases that are filed every year. We also learned that employees in the agency's 50 field offices are under tremendous pressure to meet quotas for processing complaints.

In addition, we heard that complaints frequently are shuffled between field offices hundreds of miles apart, requiring investigations to be conducted by telephone and the mails. And we heard of the serious need for additional training for EEOC investigators and critical staff imbalances between field offices, some offices being overstaffed and some understaffed.

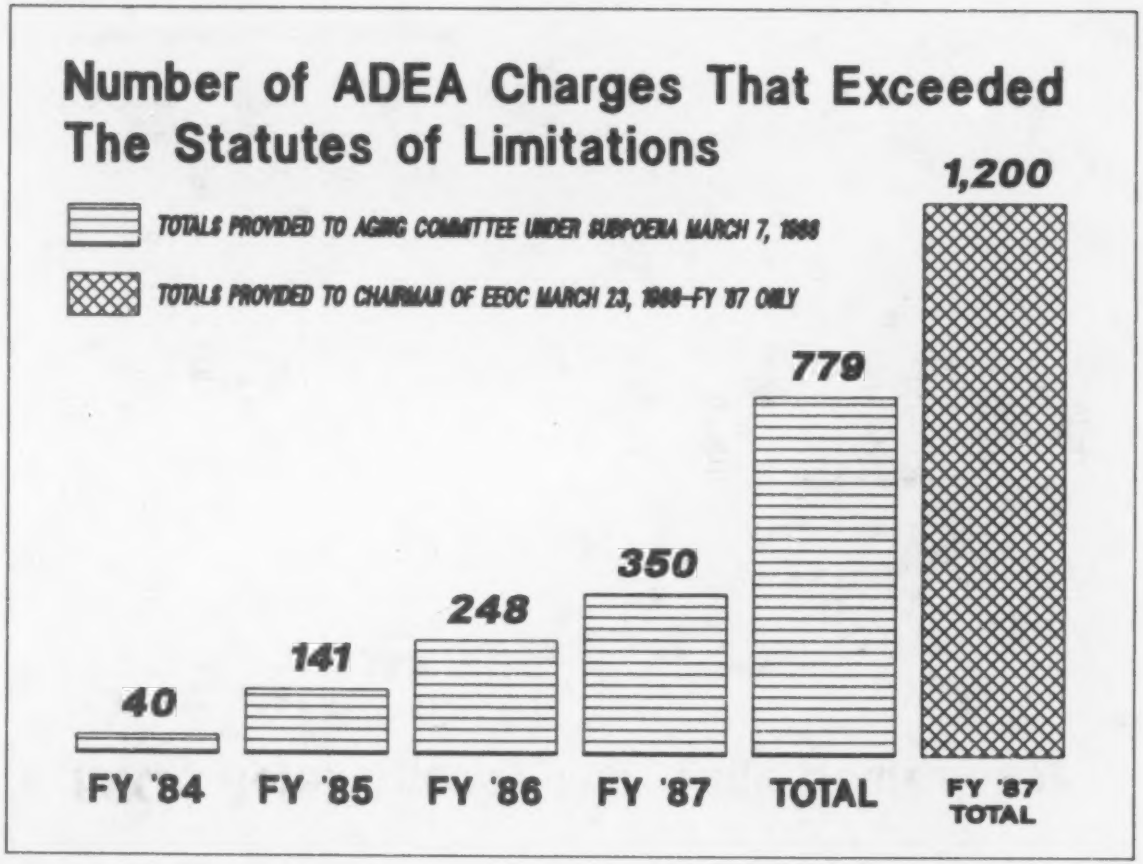
Today, we'll hear from a GAO expert who will present his analysis of the enforcement data provided by the EEOC to this committee in March under a congressional subpoena. That analysis is contained in a report that the committee is making public today. A second GAO analyst will give us a progress report on a detailed evaluation of why the EEOC's computerized case tracking system has failed to do its job.

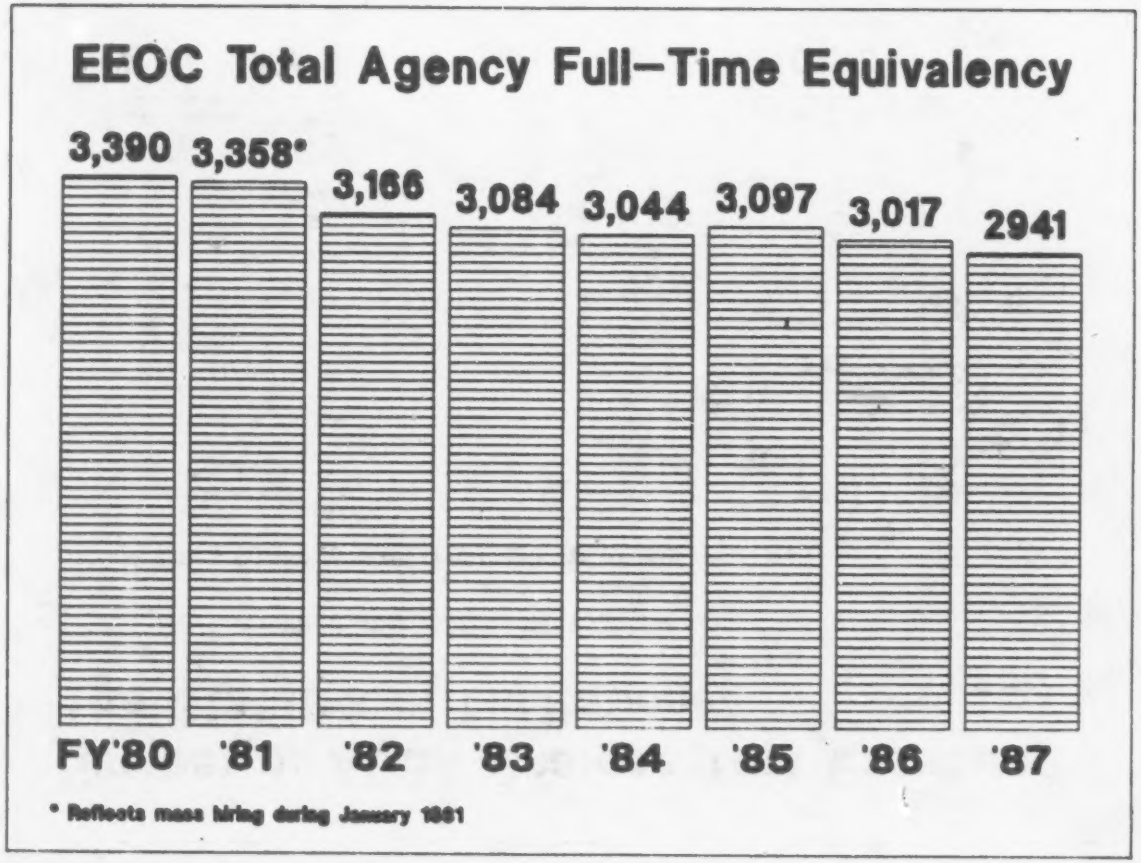
Our third and fourth witnesses today are the directors of two district offices who were invited by the Ranking Minority Member of this Committee, Senator John Heinz. Our final witness today will be EEOC Chairman Clarence Thomas, who will give us a progress report on the agency's compliance with the Age Discrimination Claims Assistance Act which President Reagan signed into law on April 7.

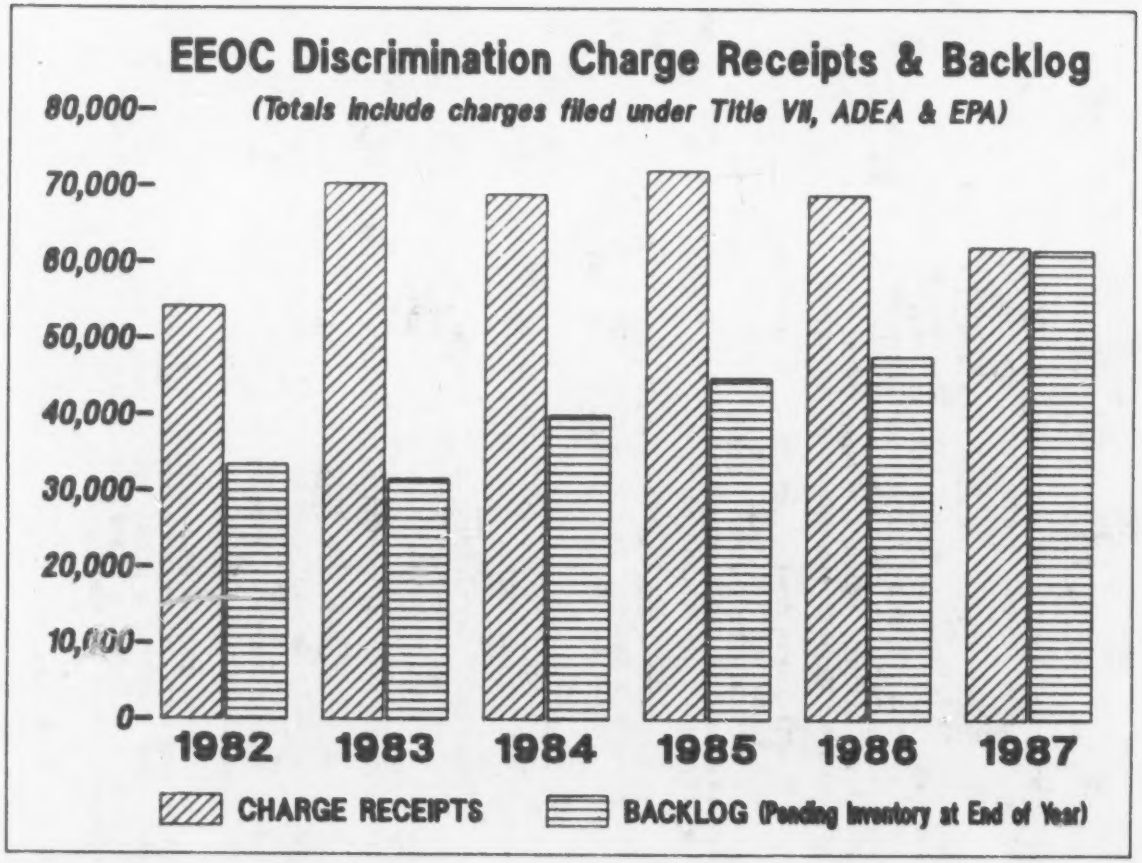
The Act, stemming from legislation I introduced earlier this year, extends the statute of limitations for an additional 18 months for thousands of older men and women whose age-bias claims were allowed by the EEOC to expire under the statute of limitations.

The new law does two things. First, it revives these claims and gives these older Americans their day in court. Second, it gives the EEOC a second opportunity to process the claims in compliance with the ADEA law.

Before we begin, let me say, and I feel sure that Chairman Thomas would agree, that these hearings have been beneficial for the EEOC. While no agency likes to have its dirty laundry aired in public, these hearings have provided the commission with the opportunity, if not the reason, to take a good, hard look at itself. In retrospect, it might have been better if we had held these hearings two or three years ago, especially for those unfortunate thousands who have been fighting their way through a bureaucratic maze -- and aren't finished yet. But we've identified a problem here. And I hope the agency and this committee can work together closely to find a solution so these unfortunate events won't recur in the future.


Number of ADEA Charges That Exceeded The Statutes of Limitations
TOTALS PROVIDED TO AGING COMMITTEE UNDER SUBPOENA MARCH 7, 1988
TOTALS PROVIDED TO CHAIRMAN OF EEOC MARCH 23, 1988–FY '87 ONLY
40
141
248
350
779
1,200
FY '84
FY '85
FY '86
FY '87
TOTAL
FY '87 TOTAL


EEOC Total Agency Full–Time Equivalency
3,390
3,358*
3,166
3,084
3,044
3,097
3,017
2941
FY'80
'81
'82
'83
'84
'85
'86
'87
* Reflects mass hiring during January 1981


EEOC Discrimination Charge Receipts & Backlog
(Totals include charges filed under Title VII, ADEA & EPA)
80,000–
70,000–
60,000–
50,000–
40,000–
30,000–
20,000–
10,000–
0–
1982
1983
1984
1985
1986
1987
CHARGE RECEIPTS
BACKLOG (Pending Inventory at End of Year)

STATEMENT OF SENATOR CHARLES E. GRASSLEY AT A HEARING OF THE SPECIAL COMMITTEE ON AGING ON THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, JUNE 24, 1988.

MR. CHAIRMAN, I DO NOT HAVE A GREAT DEAL TO ADD TO WHAT I SAID IN THE STATEMENT I SUBMITTED FOR THE RECORD YESTERDAY.

IT IS CLEAR THAT THE AGE DISCRIMINATION CLAIMS THAT WERE ALLOWED TO LAPSE SHOULD NOT HAVE LAPSED. WHEREEVER RESPONSIBILITY FOR THAT ULTIMATELY LIES, IT IS REALLY INEXCUSEABLE FOR THE POLITICAL MANAGERS OF A LAW ENFORCEMENT PROGRAM OR THE MOST SENIOR MANAGERS OF OUR FEDERAL CAREER PERSONNEL SERVICE, SOME WITH MANY YEARS OF FEDERAL GOVERNMENT EXPERIENCE, TO HAVE ALLOWED THIS TO HAPPEN.

I STILL HAVE SOME QUESTION AS TO WHETHER THESE CLAIMS COULD NOT HAVE BEEN HANDLED IN A TIMELY MANNER WITHIN THE RESOURCE CONSTRAINTS FACING THE E.E.O.C. I MUST SAY I AM INTRIGUED BY THE FACT THAT SOME DISTRICT OFFICES HAD NO LAPSED CLAIMS, WHILE OTHERS HAD MANY.

I UNDERSTAND THAT WE WILL HEAR TODAY FROM DISTRICT DIRECTORS WHO HAD NO, OR FEW, LAPSED AGE DISCRIMINATION CLAIMS. PERHAPS THEY WILL BE ABLE TO TELL US HOW THEY DID IT.

CHAIRMAN THOMAS WILL ALSO HAVE THE OPPORTUNITY TO TELL US ABOUT HIS EFFORTS TO IMPROVE THE WORKINGS OF THE E.E.O.C. DURING HIS TENURE THERE.

YESTERDAY'S WITNESSES, WHO, I THINK IT IS FAIR TO SAY, WERE NOT PARTICULARLY FRIENDLY TOWARD E.E.O.C. CENTRAL OFFICE, SEEMED ENTHUSIASTIC ABOUT THE SHIFT IN EMPHASIS UNDER THOMAS FROM THE "RAPID CHARGE" SYSTEM USED BY HIS PREDECESSORS TO THE "FULL INVESTIGATION, FULL REMEDY" POLICY HE INSTITUTED.

AND THIS CERTAINLY SAYS SOMETHING IMPORTANT ABOUT E.E.O.C. UNDER THOMAS' LEADERSHIP, SINCE THE POLICY IN QUESTION INVOLVES THE CORE RESPONSIBILIITY OF THE E.E.O.C. AS A LAW ENFORCEMENT AGENCY -- THE RESPONSIBILITY TO GET JUST RESOLUTIONS TO DISCRIMINATION COMPLAINTS.

CHAIRMAN THOMAS WILL ALSO HAVE AN OPPORTUNITY TO SPEAK TO US ON THE MOST IMPORTANT QUESTION, WHICH IS WHAT HE IS DOING TO MAKE SURE THAT THOSE WHOSE RIGHTS WERE ABROGATED HAVE THOSE RIGHTS REINSTATED, AND WHAT HE IS DOING TO MAKE SURE THAT NOTHING LIKE THIS HAPPENS AGAIN.

I HAVE NOTHING FURTHER, MR. CHAIRMAN.

The CHAIRMAN. So, this morning, we will hear first from Mike O'Dell who is a social science analyst, and he will give us his input. We have Mr. Rhile, Associate Director for Intake at the General Accounting Office. I will ask you both to please stand for the oath.

[Witnesses sworn.]

The CHAIRMAN. Please proceed, Mr. O'Dell.

TESTIMONY OF MICHAEL O'DELL, SOCIAL SCIENCE ANALYST, GENERAL ACCOUNTING OFFICE DETAILEE

Mr. O'DELL. Good morning, Mr. Chairman

My name is Michael O'Dell. With your permission, Mr. Chairman, I would like to summarize my testimony and request that my prepared testimony be placed in the record.

The CHAIRMAN. Your entire testimony will be made part of the record, Mr. O'Dell, and please proceed as you would care to.

Mr. O'DELL. Thank you.

I am employed with the General Accounting Office's Human Resources Division and am a social science analyst in that division's Design and Data Analysis Group. However, I am not here in my capacity as an employee of GAO but, rather, as a detailee to the Senate's Special Committee on Aging.

I was assigned with the responsibility to analyze the data reported by EEOC in response to the committee's February 24, 1988, subpoena. My final report was submitted to you, Mr. Chairman, in my memorandum to you dated June 15.

Today, I would like to summarize my conclusions from that report and have that report added to the proceedings of this hearing as well.

I reviewed data and other documents provided by EEOC and its field offices in response to the committee's subpoena. In addition, I reviewed other materials from the EEOC, including annual reports, memoranda, and testimony by Chairman Thomas. In all cases, only EEOC information was used, and in no instance were sources outside of EEOC used.

Because of conflicting information supplied by EEOC in response to the committee's subpoena, I concluded that discrepancies among the data were irreconcilable and that I was unable to provide a meaningful analysis. Generally, this inability included problems relating to the data's completeness, accuracy, and uncertainty as to whether the individual EEOC field offices reported comparable data for each subpoena item or had interpreted the subpoena's requests differently.

Many offices cautioned that the data they reported were the best that they could find or reconstruct and not necessarily complete. A major reason given for incompleteness of the data was due to the Commission's destruction schedules for closed charges. This is the most probable cause for incompleteness of data on charges closed in the earlier fiscal years.

In addition to the incompleteness of the data, there were questions about its accuracy. Some of the offices caveated the accuracy of their data. In one case, a field office provided two sets of data from two different sources from EEOC. Although the two sources reported comparable information, they differed by 41 charges in

their reported total of ADEA charges received and by 198 charges in reporting the total number of ADEA charges closed in fiscal year 1987.

Since these two sources were reporting the same data, the discrepancy between these two sources raises questions as to their accuracy. Because some EEOC field offices reported that they had reconstructed data using multiple sources, including these two, it is impossible to say with assurance how accurate the data are.

In my opinion, in any major data collection effort, there may also be some confusion about the definition of terms. To clarify the intent of the subpoena, staffs of the committee and commission met on February 29, 5 days after the subpoena was served. During this meeting and as documented in a memorandum prepared and delivered by the committee to the Commission on the same day, the intent of subpoena item 4b which was the charges exceeding the statutes of limitations was explained to Commission personnel.

This was apparently not communicated to all field offices by EEOC headquarters. At least one field office, in providing the requested data, stated the way it had interpreted item 4b. Quoting from that document,

> We have not included cases, if any, which, while in the administrative process, exceeded the 2 or 3 year statutes of limitations and did not result in a PM being submitted for such cases. In the absence of guidance on the meaning of some of the information requested, it was difficult to respond with precision.

Item 4b was an especially critical item in the subpoena. Independent of the field office's conflicting interpretation of that item, however, I believe that, generally, EEOC's field offices had not provided data responsive to this subpoena item.

On January 22, 1988, just 1 month before the issuance of the subpoena, the Commission had requested from its field offices the same information as that requested in the subpoena. The Commission did so because EEOC headquarters was unable at that time to develop an inventory of expired ADEA charges.

In its March 23 report documenting the results of that request to Chairman Thomas, EEOC's Office of Program Operations reported that 1,200 ADEA charges had exceeded the statutes of limitations during fiscal year 1987. EEOC field offices responded to the subpoena with a total of 840 charges that had exceeded the statutes of limitations.

However, their reported 840 charges were not for 1987 but, rather, was the total for the 4-year period covered under the subpoena, 1984 through 1987. Such differences as this raise questions about the accuracy of what had been reported, not only for this item but for other items of the subpoena.

These are some reasons why I had concerns about the quality of the data. As a result of these concerns, I believe that a meaningful analysis of the data is not possible.

A more detailed description of how I conducted my review of the data as well as tables summarizing the data that was submitted in response to the subpoena and a set of questions that I had relating to the quality of these data is contained in my final report.

One of the EEOC's important missions is resolution of discrimination charges. Without proper monitoring of charges, harm could

be done to either or both those charging discrimination or the respondents of those charges.

The EEOC has been attempting to develop a nationwide computerized tracking system for many years. It is evident from a review of its documents that EEOC has had and continues to have a problem in its management of data.

Monitoring ADEA charges is an example of an especially critical area of concern for EEOC given the statutes of limitations.

I hope that I have assisted the committee in pointing out where difficulties may exist in EEOC's data as well as its data management.

Mr. Chairman, that concludes my testimony. I will be happy to respond to any questions that you may have at this time.

[The prepared statement of Mr. O'Dell follows:]

STATEMENT OF

MICHAEL O'DELL

SOCIAL SCIENCE ANALYST

DETAILED TO THE

SENATE SPECIAL COMMITTEE ON AGING

FROM THE

GENERAL ACCOUNTING OFFICE

HUMAN RESOURCES DIVISION

June 24, 1988

Good morning, Mr. Chairman and Members of the Committee. My name is Michael O'Dell. I am employed with the General Accounting Office's Human Resources Division and am a Social Science Analyst in that Division's Design and Data Analysis Group. In general, my experience during my last fourteen years of federal service has been spent primarily in the field of research design and analysis. However, I am not here in my capacity as an employee of GAO, but rather as a detailee to the Senate's Special Committee on Aging. I was assigned with the responsibility to analyze the data reported by EEOC in response to the Committee's February 24, 1988 subpoena. My final report was submitted to you, Mr. Chairman, in my memorandum to you dated June 15. Today, I would like to summarize my conclusions from that report and have that report added to the proceedings of this hearing.

I reviewed data and other documents provided by EEOC and its field offices in response to the Committee's subpoena. In addition, I reviewed other materials from EEOC, including annual reports, memoranda and testimony by Chairman Thomas. In all cases, only EEOC information was used; in no instance were sources outside of EEOC used. Because of conflicting information supplied by EEOC in response to the Committee's subpoena, I concluded that discrepancies among the data were irreconcilable and that I was unable to provide a meaningful analysis. Generally, this inability included problems relating to the data's completeness, accuracy and uncertainty as to whether the individual EEOC field offices reported comparable data for each subpoena item or had interpreted the subpoena's requests differently.

While the initial hope of the Committee was to learn of the volume and nature of the Age Discrimination in Employment Act (ADEA) charges received and closed during Fiscal Years 1984 through 1987, it became evident very early that, for many field offices, the data were incomplete. Many offices cautioned that the data they reported were the best that they could find or reconstruct and not necessarily complete. A major reason given for incompleteness of the data was due to Commission destruction schedules for closed charges. This is the most probable cause for incompleteness of data on charges closed in the earlier fiscal years.

In addition to the incompleteness of the data, there were questions about the accuracy of the data. Some of the offices caveated the accuracy of the data. In one case, a field office provided two sets of data from two different EEOC sources. Although the two sources reported comparable information, they differed by 41 charges in their reported total of ADEA charges received and by 198 charges in reporting the total number of ADEA charges closed in fiscal year 1987. Since these two sources were reporting the same data, the discrepancy between these two sources raises questions as to their accuracy. Because some EEOC field offices reported that they had reconstructed data using multiple sources, including these two, it is impossible to say with assurance how accurate the data are.

In my opinion, in any major data collection effort, confusion may exist in the definition of terms. To clarify the intent of the subpoena, staffs of the Committee and Commission met on February 29, five days after the subpoena was served. During this meeting, and as documented in a memorandum prepared and delivered by the Committee on the same day, the intent of subpoena item 4b (charges exceeding the statutes of limitations) was explained to Commission personnel. This memorandum, written by the Committee's Staff Director, and addressed to EEOC's Director of Communications and Legislative Affairs for the Commission, said, in part, and I am quoting: "Item 4b is intended to cover all ADEA cases that exceeded the two-year and

three-year statutes of limitations before there had been an EEOC staff recommendation, regardless of whether or not there subsequently ever was such a recommendation." This was apparently not communicated to all field offices by EEOC headquarters.

At least one field office, in providing the requested data, stated the way it had interpreted item 4b. Quoting from that document: "We have included in item 4(b) only those cases in which we submitted Presentation Memoranda...We have not included cases, if any, which, while in the administrative process, exceeded the two or three year statute of limitations and did not result in a PM being submitted for such cases...In the absence of guidance on the meaning of some of the information requested it was difficult to respond with precision." This interpretation was clearly in contradiction to what had been discussed on February 29.

Item 4b was an especially critical item in the subpoena. Independent of the field office's conflicting interpretation of that item, however, I believe that generally EEOC's field offices had not provided data responsive to this subpoena item. On January 22, 1988, just one month before the issuance of the subpoena, the Commission had requested from its field offices the same information as that requested in the subpoena. The Commission did so because EEOC headquarters was unable at that time to develop an inventory of expired ADEA charges. In its March 23, 1988 report, documenting the results of that request to Chairman Thomas, EEOC's Office of Program Operations reported that 1200 ADEA charges had exceeded the statutes of limitations during fiscal year 1987. EEOC field offices responded to the subpoena with a total of 840 charges that had exceeded the statutes of limitations. However, their reported 840 charges represented a total for the four year period from fiscal years 1984 through 1987. Such differences as this raised questions about the accuracy of what had been reported not only for this item but for other items of the subpoena.

These are some reasons why I had concerns about the quality of the data. As a result of these concerns, I believe that a

meaningful analysis of the data is not possible. A more detailed description of how I conducted my review of the data, as well as tables summarizing the data submitted in response to the subpoena and a set of questions relating to the quality of these data, is contained in my final report.

One of EEOC's important missions is resolution of discrimination charges. Without proper monitoring of charges, harm could be done to either or both those charging discrimination or the respondents of those charges. The EEOC has been attempting to develop a nationwide computerized tracking system for many years. It is evident from a review of its documents that EEOC has had and continues to have a problem in its management of data. Monitoring ADEA charges is an example of an especially critical area of concern for EEOC given the statutes of limitations. This was acknowledged as recently as February 2, 1988 in a memorandum from EEOC's Office of Program Operations to all EEOC District Directors that "Your management systems should provide adequate ticklers to assure that ADEA cases are resolved in that [within the statute of limitation] time frame."

I hope that I have assisted the Committee in pointing out where difficulties may exist in EEOC's data as well as in its data management. After receiving the report on GAO's review of EEOC's Charge Data System, perhaps EEOC can develop a charge tracking system that will be an effective management tool for the administration and enforcement of the ADEA.

Mr. Chairman, that concludes my testimony. I will be happy to respond to any questions either you or other Members of the Committee may have.

The CHAIRMAN. Mr. O'Dell, you say headquarters reported 1,200 age complaints had run the statute of limitations in fiscal year 1987. Is that correct?

Mr. O'DELL. That is correct.

The CHAIRMAN. But that the data that you saw from the field offices did not cover fiscal year 1987?

Mr. O'DELL. It did include fiscal year 1987. What I was reporting was the sum of the data that they had supplied for fiscal years 1984 through 1987 inclusive.

The CHAIRMAN. Oh, they did include 1987 then.

Mr. O'DELL. Yes, they did.

The CHAIRMAN. Why did they only show 840 some then?

Mr. O'DELL. Well, the 840 is the sum across the years, 1984 through 1987 inclusive. In fact, the chart[1] that you have before us shows the information that was obtained. The columns in red show the individual years and the number of ADEA charges that had exceeded the statute of limitations for each of those years.

As you see, in fiscal year 1987, the subpoena was able to discern 350 charges that were reported by the field offices that had exceeded the statute of limitations. That would compare directly with the 1,200 that the EEOC headquarters had reported.

The CHAIRMAN. You have left me. You are saying that—you used the term "compared." Are you telling us that the number supplied by the headquarters, 1,200, does not agree with the 780 supplied by the field offices?

Mr. O'DELL. Just to make a small correction on that, the 1,200 does not agree with the 350 comparing fiscal year 1987 from EEOC headquarters——

The CHAIRMAN. Oh, I see. The 1,200 is just for fiscal year 1987; it is not through fiscal year 1987, meaning the other years, 1984 through 1987.

Mr. O'DELL. The 1,200 in blue——

The CHAIRMAN. Is just for 1987.

Mr. O'DELL. Just for 1987 as reported by EEOC headquarters in an internal document from Office of—

The CHAIRMAN. Then, you are comparing that with the fiscal year 1987 that you got from the field which is 350.

Mr. O'DELL. That is correct.

The CHAIRMAN. Then, you cannot explain the discrepancy?

Mr. O'DELL. All I can say is that there is a large discrepancy and that, in part, it could be the misunderstanding or lack of direction received by the field offices from headquarters to clarify which charges were to be reported for the subpoena.

The CHAIRMAN. Were you in on any of the discussions with the Commission where they now reached a total of perhaps 7,500 which would be accurate that had exceeded the statute of limitations?

Mr. O'DELL. I have not participated in any meetings with the Commission or the committee regarding that as much as I am aware of the figures that EEOC headquarters has provided, estimating between 5,000 and 7,500.

The CHAIRMAN. What is your recommendation?

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[1] See p. 167.

Mr. O'DELL. Well, my conclusion would be that the field is probably underreporting the numbers and not necessarily intentionally. I would have to look at EEOC headquarters' source to understand better how they were able to obtain 1,200. I lack additional information to be able to draw any further conclusion from that.

The CHAIRMAN. Let's hear from Mr. Rhile and then get back to you again, Mr. O'Dell.

Mr. O'DELL. Very well, sir.

Mr. RHILE. Mr. Chairman, with your permission, I, too, would like to briefly summarize my statement.

The CHAIRMAN. Your entire statement will be made part of the record, Mr. Rhile. Please proceed.

Mr. RHILE. Thank you, Mr. Chairman.

TESTIMONY OF HOWARD RHILE, ASSOCIATE DIRECTOR, INFORMATION, MANAGEMENT, AND TECHNOLOGY DIVISION, GENERAL ACCOUNTING OFFICE

Mr. RHILE. First of all, I appreciate the opportunity to respond to your request for testimony on the status of our recently begun work at EEOC on the charge data system. In your May 9 letter to the Comptroller General, you requested that we determine whether EEOC's system is able to provide accurate, complete, reliable, and current data to EEOC in its administration and enforcement of the Age Discrimination in Employment Act.

As you know, we are in the very early stages of our work. Since the beginning of June, we have met with some EEOC officials and have reviewed some documentation to obtain a basic understanding of the system and how it operates. Much of the information we have reviewed so far was gathered by the committee staff during their examination of EEOC's files.

More work and analysis must be done by us before we can independently determine whether EEOC's charge data system is accurate, reliable, complete, and current. Some of that work will entail looking into how the system was developed and implemented and the extent to which EEOC has tested the accuracy and reliability of data in the system.

Our preliminary review of documents thus far shows that 7 of 23 district offices have expressed concerns over perceived problems in the way that the charge data system supports their operations. These problems fall into two categories. One is unfulfilled user requirements, the second is operational difficulties with the system. I would like to briefly summarize those.

Regarding the first category, four EEOC district offices reported that user requirements were not being satisfied by the system. These requirements concern the ability to transfer automated records directly from one field office to another and the ability of district offices to directly access the data of their subsidiary offices.

The ability to transfer charge records from one field office to another was described by EEOC's Director of the Office of Program Operations as a critical requirement identified by system users. Memoranda from three district directors indicate that the charge data system is not able to do this, and the Director of Information Systems Services said that the process of transferring automated

records can take about 2 weeks and requires both the sending and receiving offices to maintain manual records in order to keep complete and current information on their work loads.

The ability of district offices to access the data of their subsidiary offices, was also one of the critical requirements identified by the users, according to the Director of the Office of Program Operations. Memos from three district directors reported that the system did not provide this capability, and two of these directors said the capability was needed to monitor the quality and quantity of their subsidiary offices' work. Headquarters officials recently told us that they have been working to develop this capability.

The second category concerns operational difficulties with the system. With respect to that area, four district offices have indicated that data inaccuracies in the system were a real problem. These documents identified coding problems as one source of data inaccuracies. There are 129 action codes contained in the system which, according to one district director, is excessive, unwarranted, and unnecessarily creates delays and problems for the user.

One district director also reported that the charge data system is unable to list local data in the system, to delete errors, to generate ad hoc reports, or to selectively print out charge data in the local system. The same district director also expressed concern that the charge data system still contains erroneous data from the predecessor system.

In summary, Mr. Chairman, before we can determine whether EEOC's system is able to provide accurate, reliable, complete, and current data, more work needs to be done. The correspondence we have reviewed so far contains indications of difficulties with the charge data system that warrant some further review. During the course of our work to respond to your May request, we will look into these reported difficulties with the charge data system.

This concludes my prepared statement, Mr. Chairman, and I shall be pleased to answer any questions that you or any others may have at this time.

[The prepared statement of Mr. Rhile follows:]

United States General Accounting Office

GAO

TESTIMONY

June 1988

Equal Employment Opportunity Commission's Charge Data System

For Release on
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Statement of Howard Rhile, Associate Director, Information Management and Technology Division

Mr. Chairman and Members of the Committee:

We appreciate the opportunity to respond to your request for testimony on the status of our recently begun review of the Equal Employment Opportunity Commission's Charge Data System. In your May 9, 1988, letter to the Comptroller General, you requested that we determine whether EEOC's system is able to provide accurate, reliable, complete, and current data to EEOC in its administration and enforcement of the Age Discrimination in Employment Act.

The Charge Data System is an automated system composed of field office data bases and a national data base. According to EEOC, the system was designed to provide EEOC's managers and staff with information on the status of employment discrimination charges.

As you know, we are in the very early stages of our work. Since the beginning of June 1988, we have met with some EEOC officials and reviewed some documentation to obtain a basic understanding of the system and how it operates. Much of the information we have reviewed thus far was gathered by the Committee staff during their examination of EEOC's files.

More work and analysis must be performed before we can determine whether EEOC's Charge Data System is accurate, reliable, complete, and current. Some of that work will entail looking into how the Charge Data System was developed and implemented and the extent to which EEOC has tested the accuracy and reliability of data in the system.

Our preliminary review of documents thus far shows that some EEOC officials have expressed concerns over perceived problems in the way the Charge Data System supports their operations. The documents we have read were originated by seven of the 23 district offices, apparently to describe the perceived problems to the EEOC headquarters. Most of these concerns appear to focus on difficulties that have been encountered with the system since its implementation in 1986.

The problems reported in the documents concern unfulfilled user requirements and operational difficulties with the system. I will briefly discuss each of these reported concerns.

REPORTS OF UNFULFILLED USER REQUIREMENTS

In their documents, four EEOC district offices reported that user requirements were not being satisfied by the system. These requirements concern the ability to transfer automated records directly from one field office to another and the ability of district offices to directly access the data of their subsidiary offices.

Automated Transfer of Records

The ability to transfer charge records from one field office to another was described by EEOC's Director of the Office of Program Operations as a critical requirement identified by the system users. According to the documents we reviewed, field offices transfer hundreds of charges each day to one another for such reasons as balancing workloads among offices and assigning cases to offices with proper jurisdiction.

Memorandums from three District Directors indicate that the Charge Data System is not able to directly transfer automated charge records from one field office to another. According to these officials, the sending field office must transfer the automated records to a system at EEOC headquarters, which is called a collection manager. The collection manager forwards the records to the national data base for updating. Then, the Charge Data System sends the automated records to the receiving office. The Director, Information Systems Services, said the process of transferring automated records this way can take 2 weeks and requires both the sending and receiving offices to maintain manual records in order to keep complete and current information on their workloads. The District Directors suggested that the Charge Data System be modified to provide the capability for direct transfer of records from one field office to another.

Access To Subsidiary Office's Data

The ability of district offices to access the data of their subsidiary offices was also one of the critical requirements identified by the users, according to the Director, Office of Program Operations. Memorandums from three District Directors reported that the Charge Data System did not provide this capability; two said this capability was needed to monitor the quality and quantity of their subsidiary offices' work. According to one of the memorandums, the districts have to request automated reports on their subsidiary offices' operations from the National Data Base.

I would like to note that headquarters officials recently told us that they have been working to develop the capability for district offices to obtain automated information on the workload of their subordinate offices.

REPORTS OF OPERATIONAL DIFFICULTIES

Documents from four district offices indicated that data inaccuracies were also a problem. These documents identified coding problems as one source of data inaccuracies. There are 129 action codes contained in the system which, according to one District Director, is

excessive, unwarranted, and unnecessarily creates delays and problems for the user. Additionally, another District Director said codes have not been developed to reflect such critical information as the transfer of open charges and cases closed because of the inability of EEOC to locate the charging party. Therefore, the system cannot compile accurate reports, and manual records must be maintained and reconciled with computer listings.

One District Director also reported that the Charge Data System is unable to list local data in the system, to delete errors and misinformation, to generate ad hoc reports, or to selectively print out charge data. He concluded that these inabilities result from the selection of improper software for the system. The same District Director also expressed concern that the Charge Data System still contains erroneous data that came from the predecessor system.

In summary, before we can determine whether EEOC's system is able to provide accurate, reliable, complete, and current data, more work needs to be done. The correspondence we reviewed contain indications of difficulties with the Charge Data System that warrant some further review. During the course of our work to respond to your request, we will look into the reported difficulties with the Charge Data System.

This concludes my prepared statement, Mr. Chairman. I will be pleased to answer any questions that you or others may have at this time.

The CHAIRMAN. Mr. Rhile, 7 out of 23 district offices felt the system was not working for them?

Mr. RHILE. They reported that they had some operational difficulties with the system and it wasn't meeting their needs.

The CHAIRMAN. What about the other 16?

Mr. RHILE. We have not yet in this early stage of our job had an opportunity to contact all of the district offices or to determine the full extent, throughout EEOC of the problems with this system.

The CHAIRMAN. There are some district offices, though, that you contacted that felt it was working all right for them, were there not?

Mr. RHILE. We have not had an opportunity to discuss the operation of the system with the district people. We have looked at mostly documentation from them, documentation that was available.

The CHAIRMAN. This isn't direct discussion, then, with the district offices? This is something that you go through the records at headquarters to see if there are complaints? Is that it?

Mr. RHILE. That is correct, Mr. Chairman. As I mentioned in my testimony, much of the information that we have gotten so far with respect to complaints has been provided to us by the staff of the committee, and we have been requested to take a look at those and analyze them. That is what we did.

The CHAIRMAN. Well, did you find anything that indicated that some of the district offices are getting along just fine with the system?

Mr. RHILE. At this moment in our job, Mr. Chairman, we have not had those kinds of indications.

The CHAIRMAN. In other words, it is much too premature to make that assessment. Is that it?

Mr. RHILE. For us, yes, Mr. Chairman, it is.

The CHAIRMAN. Have you looked through the memorandum that was submitted by Mr. O'Dell to the committee dated June 15?

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United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

June 15, 1988

MEMORANDUM

To: The Honorable John Melcher, Chairman
Special Committee on Aging

From: Michael J. O'Dell, Social Science Analyst, Detailed to the Special Committee on Aging from the U.S. General Accounting Office (GAO)

Subject: Review of EEOC data Responsing to the Committee's February 24, 1988 Subpoena

PURPOSE OF THIS REPORT

This report documents the results of a technical review of EEOC-provided data representing ADEA charges filed and closed by EEOC's 48 district, local and area offices during fiscal years 1984 through 1987.

SUMMARY OF RESULTS

The ability to analyze the EEOC-provided data and to draw informed conclusions is limited. I reviewed data and other documents provided by EEOC and its field offices in response to the Committee's February 24, 1988 subpoena. In addition, I reviewed other materials from EEOC, including annual reports, memoranda and testimony by Chairman Thomas. Because of conflicting information among these sources and caveats supplied by EEOC field offices with the data they had supplied in response to the subpoena, I concluded that discrepancies among the data were irreconcilable and that I am unable to provide a meaningful analysis. Causes for the limited analyses center around questions relating to the data's accuracy and completeness and how the various EEOC offices interpreted the subpoena. Until these questions are adequately answered, it is impossible to draw intelligent conclusions from the data. To attempt to do so without clarifying these issues would be a disservice to both the Committee as well as the EEOC. However, to discern where problems do or potentially exist, it was possible to at least (1) report what data was supplied by the EEOC, office by office, (2) sum across years for each office as well as across offices for each year to provide gross levels of comparisons and (3) write about problems concerning EEOC's data as reported by EEOC staff and management. The balance of this report covers these areas in greater detail. Also appended (Attachment 2) is a list of questions relating to the data that require answers before any additional analysis of the data can be attempted.

THE DATA

The principal sources of information for this analysis were documents provided from the EEOC and its field offices requested in the Special Committee's February 24, 1988 subpoena. Because data relating to charges received and closed were reported by the 48 field offices in differing formats and reporting levels, it was necessary to standardize their format for purposes of analysis. This was accomplished initially for the district office data by developing a customized data-entry program. Area and local data were added later directly to a spreadsheet incorporating all of the data.

In addition to the count of charges received and closed for the four fiscal years, the field offices and EEOC headquarters also provided written documentation concerning ADEA charges. These documents included inter-and intra- office memoranda relating to charge processing, guidelines, status reports, etc. Also included as part of this report were documents obtained independently from the subpoena such as EEOC's annual reports from 1980 through the draft for 1985, EEOC Chairman Clarence Thomas' testimony of March 29, 1988 before the House Committee on Government Operations (Employment and Housing Subcommittee) and material submitted to Senator John Melcher, Chairman, Senate Special Committee on Aging by EEOC in its March 30, 1988 letter. In all cases, only EEOC information was used; in no instance were sources of information outside of EEOC used.

SCOPE AND METHODOLOGY

The years covered in this analysis were fiscal years 1984 through 1987. Data were requested for all ADEA charges received and closed by each of EEOC's 23 district, 16 area, and 9 local offices. It was intended that with these data, it would be possible to track (1) the change in the number of ADEA charges filed and closed as well as (2) the extent to which charges exceeded the two-year statute of limitations. To analyze the data, paper reports from the individual offices were automated for analysis using the Statistical Package for the Social Sciences, Version X (SPSSX) software.

Prior to reviewing the information, a meeting was held with the Special Committee staff to outline the nature of the review. Throughout the process of analyzing the data, Committee staff were kept apprised of the interim results of the data review and analysis with in-person consultations or telephone conversations.

Tables summarizing the data received from EEOC's 48 field offices are included as Attachment 1. Each table corresponds to a particular subpoena item in whole or part. In many cases, offices did not provide the level of detail requested. In some instances, offices indicated that only a summary was available because data had not been initially recorded in the fashion sought by the subpoena.

RESULTS

Data completeness

While the initial hope of the Committee was to learn of the volume and nature of ADEA charges received and closed during fiscal years 1984 through 1987, it became evident very early that the data for many offices were incomplete. Many offices included cautionary notes with their reports to the effect that they were reporting data as best as they could find or reconstruct and not necessarily complete. A major reason given by the offices for their inability to report data was due to Commission destruction schedules for closed cases. Because data were not complete, analysis of fiscal years 1984 through 1987 is limited to reporting the data provided comparing these with what EEOC has reported independent of the subpoena's request for similar charges.

Data accuracy

In addition to incomplete data, there were questions about the accuracy of the data. Some of the offices caveated the accuracy of the data. In one case, the New York office provided two sets of numbers in response to the subpoena: one obtained from records maintained by their staff and another used to report to EEOC headquarters: "396 Management Reports" and the "Charge Data System." The two tables following compare their response from each source for subpoena items one and two.

Subpoena item 1: ADEA charges received

	1984		1985		1986		1987	
	396MR	CDS	396MR	CDS	396MR	CDS	396MR	CDS
ADEA	538	284	545	476	1152	1191	571	520
ADEA/7	151	56	163	140	217	225	201	211
Other	0	3	2	6	1	1	2	2
Total	689	343	710	622	1370	1417	774	733

Subpoena item 2: ADEA charges closed

	1984		1985		1986		1987	
	396MR	CDS	396MR	CDS	396MR	CDS	396MR	CDS
Total	188	75	318	104	1034	929	1237	1039

As the above illustrates, discrepancies exist between the two reporting systems (less so as they approach 1987) and New York heavily caveated and explained its entries. Concerning the values of the two reporting systems, New York provided the following:

> Two sources of data exist in the New York offices from which a response to questions can be developed, and each has its own advantages and limitations [3/4/88 NYDO reply, p. 2]... The most accurate source of summary data spanning the four fiscal years in question is the 396 Reports...While the most accurate source of summary data, the statistics on these reports were derived from a variety of sources...many of which no longer exist...the format of this reporting instrument has been continually modified, providing different categorization of closure data from time to time [p.3]... The Charge Data System (CDS) is presently the uniform charge tracking system in use in the New York District Office...While CDS provides maximum analytical capability, however, its accuracy and completeness as a source of historical information is severely lacking. This deficiency derives from the newness of CDS...all pre-1986 data was down-loaded from the CSRS database, which was plagued with inaccurate data...in general, the CDS database is accurate with respect to FY 1987 and subsequent closures.

Because New York considered the 396 data to be the more accurate of the two sources for the four fiscal years, it was used for this report. More is written about EEOC's attempts to automate its data later in this report.

Data Definitions

In my opinion, in any major data collection effort, confusion may exist in defining terms. Such may be the case with these data. However, efforts were made to clarify terminology between the Commission and the Committee on February 29, 1988. There does appear to be, however, some differences in how individual district offices reported. For example, item 2j of the subpoena (charges closed before completion of EEOC investigation) was defined differently by at least two offices:

--Chicago indicated that headquarters had instructed them that item 2j be the sum of subpoena items 2a (negotiated settlements), 2b (withdrawals with benefits), 2f (lack of jurisdiction) and 2i (administrative).

--Charlotte included the same items as did Chicago in addition to items 2g (intent to file suit) and 2h (after suit filed).

These problems cast doubts on the data's consistency for this item as well as the other items sought by the subpoena.

Subpoena interpretations

Subpoena item 4b and 4c attempted to determine the magnitude of the problem associated with charges exceeding the 2 and 3 year statutes of limitations. On January 22, 1988, just one month before the issuance of the Committee's subpoena, the Commission had requested from its field offices the same information as that requested in the subpoena. The Commission did so because EEOC headquarters was unable at that time to develop an inventory of expired ADEA charges. In its March 23, 1988 report, documenting the results of that request to Chairman Thomas, EEOC's Office of Program Operations reported that 1200 ADEA charges had exceeded the statutes of limitations during fiscal year 1987, 894 of which exceeded the statutes, by EEOC's own admission, without justification. EEOC field offices responded to the subpoena with a total of 840 charges that had

exceeded the statutes of limitations. However, their reported 840 charges represented a total for the four year period from fiscal years 1984 through 1987. This may be a matter of definition. The purpose of the EEOC report was "... to determine the extent to which active charges in the investigative process may have exceeded the statute" while the subpoena sought charges prior to recommendation to litigate that had exceeded the statutes. Consequently, we may have ADEA charges exceeding statutes, regardless of litigation (EEOC report,) and those considered "trial worthy" (subpoena). Concern that there may have been varying interpretations concerning subpoena items 3, 4 and 5 is further underscored by the response given from the Phoenix District Office from an EEOC regional attorney:

> We have included in item 4(b) only those cases in which we submitted Presentation Memoranda...We have not included cases, if any, which, while in the administrative process, exceeded the two or three year statute of limitations and did not result in a PM being submitted for such cases...In the absence of guidance on the meaning of some of the information requested, it was difficult to respond with precision. [3/3/88 memo to Hermilo R. Gloria, DO Director, from Richard R. Trujillo, Regional Attorney, page 1].

Whether this is the correct interpretation would require discussions with the EEOC and its district offices.

Should this discrepancy in fact have occurred, it should not have, according to the February 29, 1988 letter from Max Richtman, Staff Director for the Committee, addressed to Deborah Graham, Director of Communications and Legislative Affairs for the Commission. In his letter, Mr. Richtman documents that day's meeting between EEOC and Committee staffs specifically called to clarify Subpoena item 4. He further restated that "Item 4b is intended to cover all ADEA cases that exceeded the two-year and three-year statutes of limitations before there had been an EEOC staff recommendation, regardless of whether or not there subsequently ever was such a recommendation. That is, we are interested in all cases that exceeded the statute of limitations without there having been a staff recommendation at this time" [emphasis added].

EEOC's DATA MANAGEMENT

One of EEOC's important missions is resolution of discrimination charges. Without proper monitoring of charges, potential harm could be done to those charging discrimination as well as the respondents of those charges. It is evident from the data obtained from the Committee's subpoena that EEOC has had and continues to have a problem in managing its data. From an independent reading of its 1980 through 1985 annual reports and Chairman Thomas' March 29, 1988 testimony before the Employment and Housing Subcommittee (U.S. House Committee on Government Operations), one might conclude the opposite. However, closer examination of those materials coupled with those obtained from the subpoena shows that EEOC has data management problems. This was most evident in the New York districts offices' submission of the two sets of numbers referenced earlier.

In Chairman Thomas' testimony, he spoke of how "EEOC maintains statistics to assist our managers in efficiently tracking and managing our enforcement..."while in the very next sentence, he said "...officials in our headquarters Office of Program Operations asked the district directors to provide the number of pending ADEA charges...[and]...the number of those charges that had exceeded the statute of limitations" [p. 1]. He later indicates that "When a case reaches the office of the General Counsel, it is entered onto that office's tracking system" [p. 4; emphasis added]. Three paragraphs later, the Chairman spoke of his frustration "...to be so close to turning the edge on many of our programs, including a nationwide data system for better charge tracking..." [p. 4; emphasis added].

EEOC has been attempting to develop a nationwide computerized tracking system for many years. In fact, from its own annual reports, one might have assumed such a capability had existed since at least fiscal year 1980:

> In FY 80, the capacity was achieved for gathering up-to-date data on resource utilization and workload status when management plan reporting was computerized. Terminals were installed in all field and appropriate headquarters locations, permitting daily entry and retrieval of workload information indicating activity at each stage of the charge and case processing systems. [15th Annual Report, 1980; p. 33; emphasis added]
>
> Computer terminals were added in two district offices, bringing the total to ten...The terminals give the field offices the ability to perform much of their own analysis of data...The cases also can be processed more quickly by having data analyzed by computer rather than by hand. [16th Annual Report, 1981; p. 31; emphasis added].
>
> Computer terminals were installed at three additional district offices, bringing the total number of district offices with computer capacity to 13. This expansion of computer capacity enables...analyzing data in-house, assert greater control over charge processing and more efficiently process charges." [17th Annual Report, 1982; p. 21; emphasis added].
>
> Program Services Division...improved the computer-based analysis system used for processing and analyzing cases and for supporting research and refined the computerized target selection models. These systems support headquarters and field compliance and litigation activities. [18th Annual Report, 1983; p. 39].
>
> A computerized Charge Data System was developed to track charges nationwide in a standardized format from their receipt through their resolution. [20th Annual Report, 1985 (DRAFT).

Its most recent and current tracking system, the Charge Data System, also appears to be lacking in accuracy and completeness. From the New York District Office [3/4/88 response, p. 7]:

> ...contributing to the incompleteness of the CDS local database is the fact that it is part of a national network of databases, and that charge records are transferred from office to office via a data collection manager facility in Washington. This interdependence on the network, and the fact that various other offices including State and Local Fair Employment Practices Agencies (FEPA), are not up to date and fully accurate with respect to records on their databases which should be transferred into our work load, contributs to the incompleteness of our database in a way that is beyond the District's control. Fortunately, with respect to the current workload, the impact of missing records from other offices on the network is deminimus.
>
> CSRS was the computerized Charge Statistical Reporting System maintained on a mainframe computer in headquarters prior to CDS. Historically this database had a track record of inaccuracy and ineffectualness.

Clearly, one would gather from EEOC's own reports that it had the management of its charge data well in control -- it is very possible that EEOC management believed this to be the case. It's performance in recent years to respond to data requests in a timely, organized manner, however, would support the observation of a problem in data management.

Data management should be a tool, not an obstacle, to assist EEOC's specialists (investigators). Properly executed, automated charge information should support all investigative functions in the field as well as headquarters. Monitoring reports should be available that measure charges in appropriate fashion and anticipate problems and notify those in need of that information. Such a system could compile routine required forms freeing staff for nonadministrative duties -- that is to investigate charges. For example, had an adequate automated system been in place in 1987, ADEA charges could have been tracked for both time from date of alleged discrimination as well as time in the EEOC's inventory. Indeed, James Troy, Director, EEOC Office of Program Operations, in his February 2, 1988 Memorandum to all District Directors, called upon the directors to make sure that "Your management systems should provide adequate ticklers to assure that ADEA cases are resolved in that time frame" [p. 1]. Consequently, EEOC staff could have been warned of nearing statute expirations as well as sending letters to the affected claimants informing them of their rights and directing them to alternative actions thereby protecting the rights of over 1200 individuals in fiscal year 1987.

ATTACHMENT 1

The tables on the following pages correspond to items 1 through 6, attachment A, in the Senate Special Committee on Aging Subpoena, dated February 24, 1988.

The following abbreviations and their corresponding meanings are used in the tables:

NA EEOC office reported that the data were Not Available

NR No Response to the subpoena item was given nor did the EEOC office offer an explanation why data were not reported

\- No data was reported because the item was Not Applicable including reasons such as an office was not in operation at the time or a particular activity was not performed to generate such data (e.g. legal units exist only in district offices)

SUBPOENA ITEM 1: Total ADEA charges filed

Offices	1984	1985	1986	1987	TOTAL
Atlanta	NA	379	382	408	1169
Savannah LO	-	-	-	-	-
Baltimore	197	323	818	232	1570
Norfolk AO	141	119	144	109	513
Richmond AO	177	152	250	235	814
Washington AO	56	80	294	170	600
Birmingham	570	433	644	544	2191
Jackson AO	90	220	253	181	744
Charlotte	295	289	304	373	1261
Greensboro LO	113	122	98	82	415
Greenville LO	6	51	265	137	459
Raleigh AO	205	141	222	202	770
Chicago	923	931	646	606	3106
Cleveland	568	654	640	808	2670
Cincinnati AO	311	274	291	286	1162
Dallas	872	557	657	748	2834
Oklahoma C AO	156	274	291	354	1075
Denver	NA	435	497	772	1704
Detroit	418	296	243	223	1180
Houston	558	469	452	832	2311
Indianapolis	983	622	582	468	2655
Louisville AO	215	180	197	219	811
Miami	145	311	463	606	1525
Tampa AO	374	407	359	325	1465
Los Angeles	700	480	694	694	2568
San Diego LO	90	168	88	95	441
Memphis	214	286	592	124	1216
Little Rck AO	133	171	181	264	749
Nashville AO	317	491	264	273	1345
Milwaukee	NR	501	142	107	750
Minneapolis LO	NR	160	552	183	895
New Orleans	265	299	274	344	1182
New York	689	710	1370	774	3543
Boston AO	341	131	303	141	916
Buffalo LO	140	174	296	104	714
Philadelphia	NA	441	410	340	1191
Newark AO	NA	145	288	269	702
Pittsburgh AO	478	454	542	427	1901
Phoenix	224	244	233	189	890
Albuquerque AO	NR	NR	NR	NR	NR
San Antonio	-	382	419	359	1160
El Paso AO	19	198	176	252	645
Seattle	1048	1731	807	371	3957
San Francisco	247	219	217	274	957
Fresno LO	30	46	61	39	176
Honolulu LO	-	-	-	-	-
Oakland LO	87	107	90	99	383
San Jose LO	80	158	116	95	449
St. Louis	-	420	423	556	1399
Kansas City AO	-	373	580	458	1411
TOTAL	12475	16208	18110	15751	62544
EEOC	16626	17759	18600	16388	69373

SUBPOENA ITEM 2: Total ADEA charge closures

Offices	1984	1985	1986	1987	TOTAL
Atlanta	NA	435	481	341	1257
Savannah LO	-	-	-	-	-
Baltimore	498	548	557	255	1858
Norfolk AO	0	9	57	133	199
Richmond AO	35	132	259	177	603
Washington AO	11	38	57	59	165
Birmingham	378	381	295	471	1525
Jackson AO	18	149	200	146	513
Charlotte	229	361	428	486	1504
Greensboro LO	57	111	83	83	334
Greenville LO	NA	24	282	69	375
Raleigh AO	118	160	163	119	560
Chicago	674	807	531	753	2765
Cleveland	658	786	783	1232	3459
Cincinnati AO	359	382	364	401	1506
Dallas	486	619	567	559	2231
Oklahoma C AO	25	222	216	149	612
Denver	NA	406	582	565	1553
Detroit	370	581	458	199	1608
Houston	583	410	494	478	1965
Indianapolis	NA	676	490	478	1644
Louisville AO	141	175	171	37	524
Miami	121	321	454	347	1243
Tampa AO	12	321	361	267	961
Los Angeles	469	475	564	477	1985
San Diego LO	42	78	116	59	295
Memphis	553	191	258	129	1131
Little Rck AO	77	168	177	125	547
Nashville AO	84	225	289	145	743
Milwaukee	NR	680	443	277	1400
Minneapolis LO	NR	13	115	565	693
New Orleans	181	248	271	264	964
New York	188	318	1034	1237	2777
Boston AO	NR	NR	NR	NR	659
Buffalo LO	75	166	206	83	530
Philadelphia	NA	288	404	515	1207
Newark AO	NA	104	158	190	452
Pittsburgh AO	404	452	476	382	1714
Phoenix	308	282	278	223	1091
Albuquerque AO	NR	NR	NR	NR	NR
San Antonio	-	149	282	368	799
El Paso AO	11	135	146	67	359
Seattle	774	1064	996	555	3389
San Francisco	620	226	271	367	1484
Fresno LO	0	32	62	40	134
Honolulu LO	-	-	-	-	-
Oakland LO	0	38	88	84	210
San Jose LO	0	110	72	72	254
St. Louis	-	482	479	506	1467
Kansas City AO	-	287	570	255	1112
TOTAL	8559	14265	16088	14789	54360
EEOC	14129	14437	14933	14530	58029

SUBPOENA ITEM 3: Litigation approved and disapproved by EEOC

Offices	1984	1985	1986	1987	TOTAL
Atlanta	NA	3	6	3	12
Savannah LO	-	-	-	-	-
Baltimore	0	12	10	9	31
Norfolk AO	-	-	-	-	-
Richmond AO	-	-	-	-	-
Washington AO	-	-	-	-	-
Birmingham	0	5	3	2	10
Jackson AO	-	-	-	-	-
Charlotte	6	11	5	6	28
Greensboro LO	-	-	-	-	-
Greenville LO	-	-	-	-	-
Raleigh AO	-	-	-	-	-
Chicago	0	7	10	5	22
Cleveland	3	11	2	7	23
Cincinnati AO	-	-	-	-	-
Dallas	1	4	7	7	19
Oklahoma C AO	-	-	-	-	-
Denver	NA	3	3	8	14
Detroit	3	6	3	3	15
Houston	NA	7	35	3	45
Indianapolis	1	8	7	6	22
Louisville	-	-	-	-	-
Miami	7	5	2	0	14
Tampa AO	-	-	-	-	-
Los Angeles	6	24	7	7	44
San Diego LO	-	-	-	-	-
Memphis	4	4	5	11	24
Little Rck AO	-	-	-	-	-
Nashville AO	-	-	-	-	-
Milwaukee	2	7	8	6	23
Minneapolis LO	-	-	-	-	-
New Orleans	NR	NR	NR	NR	NR
New York	2	19	19	5	45
Boston AO	-	-	-	-	-
Buffalo LO	-	-	-	-	-
Philadelphia	3	24	30	17	74
Newark AO	-	-	-	-	-
Pittsburgh AO	-	-	-	-	-
Phoenix	NR	NR	NR	NR	12
Albuquerque AO	-	-	-	-	-
San Antonio	-	NA	0	2	2
El Paso AO	-	-	-	-	-
Seattle	10	7	18	21	56
San Francisco	NA	10	2	6	18
Fresno LO	-	-	-	-	-
Honolulu LO	-	-	-	-	-
Oakland LO	-	-	-	-	-
San Jose LO	-	-	-	-	-
St. Louis	-	NR	NR	NR	20
Kansas Cty AO	-	-	-	-	-
TOTAL	48	177	182	134	573
EEOC (Table A)	89	230	191	147	657

SUBPOENA ITEM 4A: Approved & disapproved litigation

Offices	1984	1985	1986	1987	TOTAL
Atlanta	NA	NA	NA	NA	NA
Savannah LO	-	-	-	-	-
Baltimore	0	6	6	3	15
Norfolk AO	-	-	-	-	-
Richmond AO	-	-	-	-	-
Washington AO	-	-	-	-	-
Birmingham	0	5	1	2	8
Jackson	-	-	-	-	-
Charlotte	6	11	5	6	28
Greensboro LO	-	-	-	-	-
Greenville LO	-	-	-	-	-
Raleigh AO	-	-	-	-	-
Chicago	0	7	8	2	17
Cleveland	3	8	4	7	22
Cincinnati AO	-	-	-	-	-
Dallas	8	9	35	11	63
Oklahoma Cty AO	-	-	-	-	-
Denver	NA	NA	NA	4	4
Detroit	NA	2	1	2	5
Houston	NA	7	3	2	12
Indianapolis	1	22	17	9	49
Louisville AO	-	-	-	-	-
Miami	6	5	2	0	13
Tampa AO	-	-	-	-	-
Los Angeles	6	24	7	7	44
San Diego LO	-	-	-	-	-
Memphis	4	4	5	4	17
Little Rck AO	-	-	-	-	-
Nashville AO	-	-	-	-	-
Milwaukee	2	6	8	6	22
Minneapolis LO	-	-	-	-	-
New Orleans	3	3	5	0	11
New York	2	19	19	5	45
Boston AO	-	-	-	-	-
Buffalo LO	-	-	-	-	-
Philadelphia	3	22	31	24	80
Newark AO	-	-	-	-	-
Pittsburgh AO	-	-	-	-	-
Phoenix	NR	NR	NR	NR	10
Albuquerque AO	-	-	-	-	-
San Antonio	-	-	0	2	2
El Paso AO	-	2	-	-	2
Seattle	10	7	18	2	37
San Francisco	NA	10	2	6	18
Fresno LO	-	-	-	-	-
Honolulu LO	-	-	-	-	-
Oakland LO	-	-	-	-	-
San Jose LO	-	-	-	-	-
St. Louis	-	NR	NR	NR	20
Kansas Cty AO	-	-	-	-	-
TOTAL	54	179	177	104	544
EEOC (Tbls B-E)	89	230	191	147	657

SUBPOENA ITEM 4B: Exceed 2 & 3 year statutes prior to staff

Offices	1984	1985	1986	1987	TOTAL
Atlanta	NA	NA	NA	NA	NA
Savannah LO	-	-	-	-	-
Baltimore	5	13	37	20	75
Norfolk AO	0	0	0	0	0
Richmond AO	0	1	5	7	13
Washington AO	0	0	2	2	4
Birmingham	0	0	3	5	8
Jackson AO	0	0	0	0	0
Charlotte	2	4	1	1	8
Greensboro LO	NR	NR	NR	NR	NR
Greenville LO	NR	NR	NR	NR	NR
Raleigh AO	NR	NR	NR	NR	NR
Chicago	NA	NA	NA	68	68
Cleveland	2	5	16	17	40
Cincinnati AO	1	2	6	1	10
Dallas	0	0	1	2	3
Oklahoma Cty AO	NR	NR	NR	NR	NR
Denver	NA	NA	9	26	35
Detroit	NA	NA	1	2	3
Houston	1	9	7	47	64
Indianapolis	11	70	46	29	156
Louisville AO	NR	NR	NR	NR	NR
Miami	1	0	0	0	1
Tampa AO	NR	NR	NR	NR	NR
Los Angeles	0	5	3	5	13
San Diego LO	-	-	-	-	-
Memphis	3	1	15	8	27
Little Rck AO	0	0	0	7	7
Nashville AO	0	0	6	24	30
Milwaukee	2	8	9	8	27
Minneapolis LO	NR	NR	NR	NR	NR
New Orleans	0	1	1	1	3
New York	0	9	9	3	21
Boston AO	-	-	-	-	-
Buffalo LO	NR	NR	NR	NR	NR
Philadelphia	0	8	10	8	26
Newark AO	NR	NR	NR	NR	NR
Pittsburgh AO	NR	NR	NR	NR	NR
Phoenix	NR	NR	17	14	31
Albuquerque AO	NR	NR	NR	NR	NR
San Antonio	-	-	1	0	1
El Paso AO	0	0	0	0	0
Seattle	12	5	42	44	103
San Francisco	NA	0	1	1	2
Fresno LO	NR	NR	NR	NR	NR
Honolulu LO	-	-	-	-	-
Oakland LO	NR	NR	NR	NR	NR
San Jose LO	NR	NR	NR	NR	NR
St. Louis	-	NR	NR	NR	61
Kansas Cty AO	-	NR	NR	NR	NR
TOTAL	40	141	248	350	840
EEOC (Tbls F-I)	89	230	191	147	657

SUBPOENA ITEM 4C:Exceed 2 & 3 year statutes prior to Counsel

Offices	1984	1985	1986	1987	TOTAL
Atlanta	NA	NA	NA	NA	NA
Savannah LO	-	-	-	-	-
Baltimore	0	6	4	5	15
Norfolk AO	-	-	-	-	-
Richmond AO	-	-	-	-	-
Washington AO	-	-	-	-	-
Birmingham	0	0	0	0	0
Jackson AO	-	-	-	-	-
Charlotte	NA	NA	0	1	1
Greensboro LO	-	-	-	-	-
Greenville LO	-	-	-	-	-
Raleigh AO	-	-	-	-	-
Chicago	0	0	0	1	1
Cleveland	0	0	1	2	3
Cincinnati AO	-	-	-	-	-
Dallas	0	0	0	2	2
Oklahoma Cty AO	-	-	-	-	-
Denver	NA	NA	NA	2	2
Detroit	NA	NA	1	2	3
Houston	NA	0	1	0	1
Indianapolis	0	0	0	0	0
Louisville AO	-	-	-	-	-
Miami	1	0	0	0	1
Tampa AO	-	-	-	-	-
Los Angeles	0	5	3	5	13
San Diego LO	-	-	-	-	-
Memphis	0	1	0	0	1
Little Rock AO	-	-	-	-	-
Nashville AO	-	-	-	-	-
Milwaukee	2	7	8	6	23
Minneapolis LO	-	-	-	-	-
New Orleans	0	2	1	0	3
New York	NA	NA	NA	NA	NA
Boston AO	-	-	-	-	-
Buffalo LO	-	-	-	-	-
Philadelphia	0	8	12	9	29
Newark AO	-	-	-	-	-
Pittsburgh AO	-	-	-	-	-
Phoenix	NR	NR	NR	NR	10
Albuquerque AO	-	-	-	-	-
San Antonio	-	NA	0	0	0
El Paso AO	-	-	-	-	-
Seattle	1	2	0	1	4
San Francisco	NA	1	1	1	3
Fresno LO	-	-	-	-	-
Honolulu LO	-	-	-	-	-
Oakland LO	-	-	-	-	-
San Jose LO	-	-	-	-	-
St. Louis	-	NR	NR	NR	17
Kansas City AO	-	-	-	-	-
TOTAL	4	32	32	37	132
EEOC (Tbls J-M)	89	230	191	147	657

SUBPOENA ITEM 5: EEOC lawsuits filed

Offices	1984	1985	1986	1987	TOTAL
Atlanta	NA	10	8	3	21
Savannah LO	-	-	-	-	-
Baltimore	0	6	5	3	14
Norfolk AO	-	-	-	-	-
Richmond AO	-	-	-	-	-
Washington AO	-	-	-	-	-
Birmingham	0	3	1	2	6
Jackson	-	-	-	-	-
Charlotte	2	5	7	8	22
Greensboro LO	-	-	-	-	-
Greenville LO	-	-	-	-	-
Raleigh AO	-	-	-	-	-
Chicago	0	5	9	2	16
Cleveland	3	6	7	4	20
Cincinnati AO	-	-	-	-	-
Dallas	40	16	19	23	98
Oklahoma Cty AO	-	-	-	-	-
Denver	NA	2	2	4	8
Detroit	0	6	0	2	8
Houston	1	3	3	1	8
Indianapolis	1	15	10	7	33
Louisville AO	-	-	-	-	-
Miami	6	3	2	0	11
Tampa AO	-	-	-	-	-
Los Angeles	4	7	6	4	21
San Diego Lo	-	-	-	-	-
Memphis	4	3	3	3	13
Little Rock AO	-	-	-	-	-
Nashville AO	-	-	-	-	-
Milwaukee	2	4	6	3	15
Minneapolis LO	-	-	-	-	-
New Orleans	0	3	7	1	11
New York	5	6	12	3	26
Boston AO	-	-	-	-	-
Buffalo LO	-	-	-	-	-
Philadelphia	NR	NR	NR	NR	NR
Newark AO	-	-	-	-	-
Pittsburgh AO	-	-	-	-	-
Phoenix	NR	NR	NR	NR	8
Albuquerque AO	-	-	-	-	-
San Antonio	-	2	0	1	3
El Paso AO	-	-	-	-	-
Seattle	2	4	1	2	9
San Francisco	NA	10	2	6	18
Fresno LO	-	-	-	-	-
Honolulu LO	-	-	-	-	-
Oakland LO	-	-	-	-	-
San Jose LO	-	-	-	-	-
St. Louis	-	NR	NR	NR	12
Kansas City AO	-	-	-	-	-
TOTAL	70	119	110	82	401
EEOC (Table N)	63	96	118	80	357

SUBPOENA ITEM 6: Charges transferred

Offices	1984	1985	1986	1987	TOTAL
Atlanta	NA	NA	NA	NA	NA
Savannah LO	-	-	-	-	-
Baltimore	0	0	0	0	0
Norfolk AO	0	0	0	0	0
Richmond AO	0	48	0	0	48
Washington AO	0	0	193	4	197
Birmingham	NA	NA	NA	NA	NA
Jackson	55	0	0	0	55
Charlotte	1	0	1	0	2
Greensboro LO	86	14	6	3	109
Greenville LO	44	44	6	12	106
Raleigh AO	88	45	66	67	266
Chicago	NA	NA	1	137	138
Cleveland	2	4	2	4	12
Cincinnati AO	5	4	1	0	10
Dallas	NA	NA	37	24	61
Oklahoma Cty AO	NA	NA	72	60	132
Denver	NA	NA	NA	3	3
Detroit	NR	NR	NR	NR	603
Houston	NA	NA	NA	NA	NA
Indianapolis	NR	NR	145	NR	145
Louisville AO	75	7	22	41	145
Miami	0	0	0	0	0
Tampa AO	189	16	3	11	219
Los Angeles	214	1	NA	131	346
San Diego LO	90	4	1	0	95
Memphis	0	1	0	4	5
Little Rck AO	0	0	14	19	33
Nashville AO	3	12	15	47	77
Milwaukee	NR	NR	NR	NR	NR
Minneapolis LO	NA	NA	71	71	142
New Orleans	NR	NR	NR	NR	NR
New York	134	154	183	174	645
Boston AO	NR	NR	NR	NR	8
Buffalo LO	17	23	38	29	107
Philadelphia	NA	NA	1	5	6
Newark AO	NR	NR	NR	NR	7
Pittsburgh AO	0	0	8	10	18
Phoenix	NR	NR	4	2	6
Albuquerque AO	NR	NR	NR	NR	NR
San Antonio	-	NR	8	6	14
El Paso AO	NR	NR	NR	NR	15
Seattle	NA	NA	NA	160	160
San Francisco	0	3	0	6	9
Fresno LO	30	0	0	0	30
Honolulu LO	-	-	-	-	-
Oakland LO	87	20	7	2	116
San Jose LO	80	45	81	52	258
St. Louis	-	NR	NR	NR	5
Kansas Cty AO	-	NR	NR	NR	165
TOTAL	1200	445	986	1084	4518
EEOC	NR	NR	NR	NR	11

Mr. RHILE. I am afraid I have not done that, Mr. Chairman.

The CHAIRMAN. Well, the summary results that Mr. O'Dell found pretty much follow what his oral testimony was just a few moments ago. He says, "I have reviewed the data and other documents provided by EEOC and its field offices in response to the subpoena. Because of the conflicting information among these sources"—he is talking about the sources of here at headquarters and what he got from the field offices—"I concluded that discrepancies among the data were irreconcilable and that I am unable to provide a meaningful analysis."

The reason I am reading that to you, Mr. Rhile, is this. Are we looking at—how long would it take you to make an assessment on just how bad the computer system is and the management that depends upon the computer system?

Mr. RHILE. First of all, let me say this, Mr. Chairman, that we are giving this request that you made in May high priority. I would expect that, within a couple of weeks, I would be able to come back and give you a precise estimate as to how long it will take to complete the job.

The CHAIRMAN. Are we talking about 6 months perhaps or a year?

Mr. RHILE. I think we are talking maybe 6 to 8 months, something like that.

The CHAIRMAN. Six to eight months.

Mr. RHILE. Yes, Mr. Chairman. That is based on my experience in similar types of jobs. We are not yet exactly sure what we are getting into.

The CHAIRMAN. But you are convinced that there is a real need for an evaluation of this data system?

Mr. RHILE. I would say from what I have seen, there is a need to go forward.

The CHAIRMAN. And I am going to assume one thing, but you will have to tell me whether I am correct. I am assuming that the cooperation you received from Commission personnel is good.

Mr. RHILE. We have gotten pretty good cooperation.

The CHAIRMAN. Pretty good.

Mr. RHILE. Yes.

The CHAIRMAN. That means good.

Mr. RHILE. That means good.

The CHAIRMAN. All right.

Mr. RHILE. We have had no problems gaining access to people or data.

The CHAIRMAN. Yesterday, one of the district directors said that it is a major flaw to have all of the enforcement data and information forwarded to headquarters for processing rather than processing the data in the district office for their investigators and their management at the district level. Do you agree with that or have you gone far enough to make such a judgment?

Mr. RHILE. Are you referring to the transfer question, the ability to transfer data from one district to another?

The CHAIRMAN. No. That was just his statement.

Mr. RHILE. I see. I would say that——

The CHAIRMAN. He said that it was a major flaw, because unless it was changed completely so that it was more useful at the district level, it was a tremendous waste of time.

Mr. RHILE. Okay. Let me answer the question, then, in a very general way.

One of the major things that you look for when you design a system is the extent to which it meets user requirements. In this case, the users are the district offices and the people there.

To the extent that a system does not meet user requirements which have been agreed to by everyone, then I would say there is a problem. Whether it is a flaw in the design of the system, a flaw in the way in which the system is used, or in training or something like that, these are the kinds of things that we will be looking at as we proceed down the road to try to find out the causes of why these things are happening.

The CHAIRMAN. All right. I want to thank you for your work so far, Mr. Rhile. We will be very interested in your further pursuit of this, and I think it would be very helpful for the function of the Commission.

Mr. RHILE. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. O'Dell, in giving this memorandum dated June 15 to the committee, how would your work, if you should go on with it, dovetail in with Mr. Rhile's work?

Mr. O'DELL. I would say that it would be more in terms of a testing. It is a way of providing some information for the current GAO on the system. It may assist them in perhaps verifying the information that we collected or to test to what degree it may be correct or accurate, but that would be a matter of IMTEC trying to make that assessment to what degree my data might be able to assist them in their role.

The CHAIRMAN. How bad is it? You say the information you got is irreconcilable. Does that mean it is your judgment that, as it is, there is just nothing that you can get out of this without a great deal of change of the computer system to be able to make a determination as an analyst on whether or not it is functioning properly?

Mr. O'DELL. I could not talk to the system that generated the data. All I can do is to really talk to only the data itself.

That is part of the question that I had when I had determined on my own—I drew the personal conclusion that I was unable to do anything with the data other than to provide you a summary, a set of tables, showing you what you actually had obtained via the subpoena. Additional questions would be raised about what generated it, how it was generated, what quality checks are made in the collection of the data.

The CHAIRMAN. As an analyst, have you ever run into a similar situation. Is there a similar situation in your experience?

Mr. O'DELL. I can say I have not. That is not to say that there aren't other areas, other groups that have similar problems. There is usually some ability to get some information from any type of system, however difficult it might be, but it may be time consuming, and then you have to weigh the benefit of the time expended to actually collect the information.

The CHAIRMAN. Would you mind telling us how much experience you have had in this field?

Mr. O'DELL. Well, I have been with the Federal Government for 14 years. I have worked with the General Accounting Office for 8 years. Prior to that, I had worked 6 years with the Census Bureau, all of that basically dealing with data and its analysis.

The CHAIRMAN. That is 20 years. Is that correct?

Mr. O'DELL. No, 14, 8 with GAO and 6 with Census.

The CHAIRMAN. Oh, that is right. You said 14 years total Federal but 6 of that was with Census. All right, 14 years experience.

Is this the worst you have seen or not?

Mr. O'DELL. It is one of the more difficult jobs I have had.

The CHAIRMAN. I am asking, is it the worst you have seen, or have you seen incidences that are even worse than this?

Mr. O'DELL. In my personal experience, I have not seen anything worse than this.

The CHAIRMAN. Thank you.

Senator Chafee?

STATEMENT BY SENATOR JOHN CHAFEE

Senator CHAFEE. Thank you, Mr. Chairman.

I apologize for being a little late.

Could you tell me, Mr. O'Dell, what the problem is here? As I understand it, those who filed the claims and then were overtaken by the statute of limitations, the statute we passed has taken care of that group. Has it?

Mr. O'DELL. I can't respond to that question, because I was limited and basically tasked with only observing what information was collected via the subpoena. The question you are asking me, if I understand that correctly, is going outside of the knowledge that I would have.

Senator CHAFEE. Well, okay. Let's try Mr. Rhile.

I take it that your investigation, you are in the preliminary stages of it. Is that correct?

Mr. RHILE. That is correct, Senator.

Senator CHAFEE. What percentage along are you, if you can quantify that? I know that is a little difficult.

Mr. RHILE. I would say that—it is not a mathematical percentage, but I would say about 5 to 10 percent.

Senator CHAFEE. Isn't it kind of unusual to come and testify on something when you are only 5 to 10 percent through it?

Mr. RHILE. We were requested, Senator, to provide a status report of our work. As you know, we try to be responsive to the Congress, whether that be providing a status report or providing the results of a complete study. So, we think—we hope we have been responsive.

Senator CHAFEE. And the problem here seems to be this computer system. Is that what you have been spending a lot of time on?

Mr. RHILE. We have been requested to look into the data integrity of that system.

Senator CHAFEE. Is the computer system completely installed? I am not saying that it works right, but is physically everything there?

Mr. RHILE. To the best of my knowledge, most of the hardware has been installed, and most of the software has been installed, and it is considered to be an operational system. There may be a few offices where it hasn't been installed yet.

Senator CHAFEE. Now, in connection with your investigation of these difficulties, are you looking into what is happening today or are you looking into what happened in the past?

Mr. RHILE. We are going to be looking into the causes of any problems that the system is having. We will focus on the process which EEOC followed in developing its user requirements and determine if that was an adequate process.

We will also be looking at the data integrity question. We are concerned primarily with what is happening today with the system, but we may have to go back to the past to find out the reasons for some of the things.

Senator CHAFEE. Do you have any recommendations now of what can be done to improve the situation? I mean, I know we are catching you very cold here.

Mr. RHILE. Yes, Senator.

Senator CHAFEE. What did you testify? You said you were 5 to 10 percent of the way through it?

Mr. RHILE. That is my guess. At this point, I am afraid I don't have any recommendations. The major thing that we would need in order to make concrete, constructive recommendations would be to identify the causes of any problems that the system is having, and that is a task that lays before us.

Senator CHAFEE. How long will this take?

Mr. RHILE. Well, as I responded to the Chairman, in similar cases or similar type systems work, I would estimate about 6 to 8 months.

Senator CHAFEE. Six to eight months from now? From the start or from now?

Mr. RHILE. Let's say from June 1.

Senator CHAFEE. So, you will be finished by the end of the calendar year.

Mr. RHILE. I should think so, if this is a typical type audit. We are not exactly sure yet what we are getting into. So, I would prefer not to be held to that figure, but that is my best guess now.

Senator CHAFEE. Okay. I might have some other questions later, Mr. Chairman. Thank you.

The CHAIRMAN. Senator Durenberger?

STATEMENT BY SENATOR DAVE DURENBERGER

Senator DURENBERGER. Thank you, Mr. Chairman.

I regret that, yesterday, John and I were in similar pickles with about three markups going on at the same time. So, we weren't able to spend a lot of time here, but I am pleased to have the opportunity to be here today.

I would like to echo some of the concerns raised by the ranking member of this committee yesterday and by the chairman of the committee and by Senator Simpson about the importance of the investigation and timely enforcement of the ADEA. All of us here have a genuine commitment to seeing an orderly and efficient

process for protecting victims of age discrimination. I think that is even more true today than it ever has been in the past.

Nobody disputes that problems have occurred in the EEOC. Yet, sometimes we get ourselves caught in a web of continually attacking or criticizing and not spending enough time being constructive, and I know that part of the effort here—and I will presume, Mr. Chairman, that part of the effort here is to be constructively critical, if that is at all possible.

Part of what is being done here through the GAO report, I take it, is to also be in some way constructively critical, and it just seems to me that the relationship between the Congress as policymaker and the executive branch and the EEOC, in particular, needs to be better understood by both sides.

What I hope for from the course of yesterday's testimony and today's is that we will find an answer to exactly where the problems in that relationship might be. I think that is important.

I think we are almost as much at fault here sometimes as the people we pick on in these hearings, because other things always pull our attention away from things that ought to be very important to us, like the issues of human and civil rights and discrimination, in this case, based on age.

I am particularly looking forward to the Chairman of the Commission's testimony, because I think we need from him some insight into what happened and what the condition of the agency was like in 1982, what he saw as the priorities in the agency in the period of time that he has been responsible for it and, then, his sense of direction in the agency and how that relates to the sense of direction that those of us who are responsible on the policy side view that same sense.

I appreciate the fact that, usually—I am glad John Chafee asked the questions about GAO, because they are usually so careful about not making comments about anything until they finish their work, and I think that is what we have seen today, that Howard has taken the view that you are still what, 6 or 8 months away from——

Mr. RHILE. That is my best guess, Senator.

Senator DURENBERGER. From having some definitive statement that can be helpful to us. So, I hope we stay at the business of enforcing remedies against age discrimination through that period of time as well.

The CHAIRMAN. Thank you both.

I want to point out something that was made clear by testimony yesterday by people out in the field at the district level.

There is a question on why there was a failure to note that the statute of limitations was running out on these hundreds and thousands of cases of complaints—I guess I should use that term—on the Age Discrimination in Employment Act. The time frame is running again. While we extended the statute of limitations 18 months, that time started running in April—April 7, as a matter of fact, when the bill was signed into law.

The testimony we received from some of the witnesses said that the age discrimination complaints could be identified manually if it were necessary. I think that is something we have to bear in mind

as we hear from other district supervisors who will be testifying today.

So, I believe the function we are getting from the General Accounting Office at this stage—and we really thank you for it—is how bad the system is, how much time we should rely on in correcting the system, or should this be done manually to identify all the cases.

Perhaps they are all identified now, but whatever is necessary to make sure that the people who have filed the complaints with the Commission don't lose out on their opportunity under the protection under the law or find out that the Commission is going to just simply notify them at least 60 days prior to the statute of limitations running out again that they don't find anything that they can do for them and allow those individuals then to file in Federal court if they so choose and just give them their options.

So, that is why we are asking for this preliminary report from Mr. O'Dell and Mr. Rhile, and I hope, Mr. O'Dell, that I am not casting any stones at your analysis so far.

Mr. O'DELL. No, not at all.

The CHAIRMAN. I am just expressing the hope that we will have your services as this goes along at a later date to give us an analysis and find out whether the data system is working and functioning properly. I assume that would be sometime next year.

Senator CHAFEE. Mr. Chairman?

The CHAIRMAN. Yes, Senator.

Senator CHAFEE. I would just like to say one thing. My approach to this is, what can we do to straighten it out and take care of the people now?

What has happened in the past has been unfortunate. We have tried to provide some relief through the 18-month extension, but I am not so anxious in plowing old ground. I want to see this thing straightened out so that these complaints are brought up in an orderly and swift fashion, investigated, and the complainant can receive satisfaction or receive a fair investigation.

He may not be totally satisfied. Not every complainant is going to be satisfied, but I approach this as how we can straighten it out and get on with it. So, my questions and my concerns are less devoted to what went wrong in the past than they are to how we can straighten this out.

So, I look forward to hearing the Chairman's testimony on how we are doing.

Mr. Chairman, I have a prepared statement I would like to submit for the record.

The CHAIRMAN. Without objection, Senator Chafee, your prepared statement will be made part of the record at this point.

[The prepared statement of Senator Chafee follows:]

STATEMENT BY

SENATOR JOHN H. CHAFEE

IN THE UNITED STATES SENATE

SPECIAL COMMITTEE ON AGING

June 24, 1988

Mr. Chairman, twenty years ago Congress enacted a law declaring that no person could be presumed incompetent solely because of age--as long as he or she was under 65. Two years ago Congress amended that Act, removing the upper age limit. Since that time, the Age Discrimination in Employment Act has stood for one principle that I believe in quite strongly: ability is ageless.

Today, twenty years after the original Act's passage, this law has grown in importance. With the misfortune that a shifting economy and the prevalence of divorce bring, older Americans need now more than ever to be assured of access to the job market. Fortunate factors also make this Act of increasing importance. Improved health, longer life, and the maturation of the post World War II baby boom generation has made those over forty the fastest growing segment of our labor force.

We cannot question the premise of this Act, ability is ageless. Yet, a law is only as good as its enforcement. With an ever growing portion of our labor force made up of older Americans, it is our job to make sure that this law remains viable and effective. Two decades ago Congress made a commitment to ensure that older Americans would be judged on the basis of their ability, rather than their age.

As lawmakers, we entrust the enforcement of our creations to designated agencies that, like we do, serve the American people. The enforcement of the Age Discrimination in Employment Act is entrusted to the Equal Employment Opportunity Commission. It is the EEOC's duty to make sure that the law is brought to life through swift and meaningful action. Without such enforcement, a law becomes nothing but ink on paper.

I must admit, Mr. Chairman, that I have been concerned over the last year about the number of claims filed with the EEOC that

exceeded the two year statute of limitations. Congress has addressed this problem, however, by passing the Age Discrimination Claims Assistance Act of 1988. This law received bipartisan support in Congress as well as support from the President and the Chairman of the Equal Employment Opportunity Commission, Clarence Thomas.

As you know, Mr. Chairman, the Age Discrimination Claims Assistance Act waives the two year statute of limitations for cases in which the two year period has elapsed. Thus, petitioners who were ineligible to file suit in court because their claim with the EEOC had not been properly investigated and closed within two years, are now guaranteed their rights provided under ADEA.

Mr. Chairman, I appreciate your holding this oversight hearing to allow the EEOC to testify on their progress in implementing the Age Discrimintion Claims Assistance Act. It is my understanding that the Commission has made significant steps toward remedying the backlog of cases. I am glad to have an opportunity to hear the witnesses discuss problems that may still linger in the Commission as well as specific solutions that are being implemented. In addition, I look forward to hearing if there is anything the Commission believes that Congress can do to assist the EEOC in its efforts to enforce the law.

Mr. Chairman, I appreciate your diligence in this area. All of us on this Committee are concerned about the rights of the citizens to pursue retribution for acts of discrimination. In addition, I am grateful to the Equal Employment Opportunity Commission for assisting our Committee in our efforts to ensure that these rights are guaranteed not only by law, but also by enforcement.

We have, in Congress, worked on much legislation in the past twenty years that has contributed to greater equity in the workplace. The Age Discrimination in Employment Act is a vital part of this policy. I am sure that this hearing will prove educational and enlightening and will help guide us as we continue to work toward enacting laws that guarantee fair treatment for all ages.

Thank you, Mr. Chairman.

The CHAIRMAN. I want to thank you both, Mr. O'Dell and Mr. Rhile, for your assistance on this and your continued cooperation with us.

We have two directors we will call next. Chairman Thomas will testify last, and we will hear now from Harriet Ehrlich, Director of the Houston District; and R. Edison Elkins, Director of the Charlotte District.

[Witnesses sworn.]

The CHAIRMAN. Please proceed, Ms. Ehrlich. Do you have any prepared testimony or are you just here to supply us any information we ask of you? Is that correct?

Ms. EHRLICH. I don't have a prepared statement, Mr. Chairman, but, with your permission, I would like to make some comments.

The CHAIRMAN. Sure, please proceed.

TESTIMONY OF HARRIET J. EHRLICH, DIRECTOR, HOUSTON DISTRICT OFFICE, EEOC

Ms. EHRLICH. Let me first talk about our CDS system, our computer system, and let me give you an example of how user friendly I think it is.

In the Houston District Office, it is working exceptionally well. We have a system administrator who is a top manager. We have a management information specialist, neither of whom knew very much about computers. I myself didn't know a mainframe from a megabyte when we started with this.

We now have what I think is 99 percent accuracy, and if I can give you an example of something that happened last week, you will see how useful it is.

We had two new supervisors promoted. They moved into their office and, within 2 hours, they had complete printouts of every case in their inventory that they were responsible for by investigator. They had them taped up on the wall by age of case, knowing how many were over 270 days old. They had a printout of a summary report of the cases that each investigator had closed since October 1, the beginning of the fiscal year.

They knew how many were pending in each investigator's inventory, and each one of them was responsible for eight people. They knew how many each investigator had closed, what kind of closures they had, whether they were cause or no cause, whether they had settlements, how much money was garnered as a result of those settlements, and I have copies of those kinds of reports as of May 31 if you would like to see them, and I would be happy to give them to you.

It is a fantastic management tool. Yesterday, when I heard someone suggest that the system be dismantled, the thing that ran through my mind was I will chain myself to this computer before I let anyone take it out of the office. It works very well, but it requires total and relentless dedication to getting correct data in.

Whatever you put in you can get out. We are able to get every single month 13 reports for each of the managers that give us all kinds of information that we would never be able to do manually.

The Houston District Office is a large office. We will take between 3,000 and 4,000 charges this year. We maintain a low pend-

ing inventory of about 1,600, because we use all kinds of imaginative incentives to keep people from getting burned out and make them work hard and assure that we have both quality and productivity in the kind of work that we do in the office, and we are proud of that work.

As far as a management system goes, this CDS system for Houston is working wonderfully. It took a tremendous effort to ensure that every single piece of information got in, that it was checked and rechecked.

The incentive for the supervisors—and there are seven enforcement units in Houston—the incentive for the supervisors to get the data in correctly is that every quarter, we give a unit of the quarter award. It is a hotly contested award and involves plaques and recognition and buttons, and the director takes everybody out for pizza. It is called our Golden Pizza Award.

There is a lot of competition for that, and there are 14 criteria that we look at before we give this award to people. All of those criteria have to do with information that is coming out of the CDS system.

So, it is in their best interest to have it accurate and to make sure that everything is being counted.

The CHAIRMAN. Ms. Ehrlich, do you think it is because you have a program manager—what is the other title that you used?

Ms. EHRLICH. Everybody has a systems administrator and a management information specialist.

The CHAIRMAN. Do you think it is because those two individuals are very good that it works so well? I suppose it is.

Ms. EHRLICH. Well, but what I am saying is that the system is good. It is only as good as what people do with it.

Let me use the example of a bank account. If you make a bank deposit and the teller punches in the wrong number, when you get your statement at the end of the month, it is going to be wrong and you are going to hit the ceiling, especially if it is too low.

It is really the same thing with the computer system. It is that simple. The good data goes in, and you can get good data out.

The CHAIRMAN. You mentioned 270 days. Is it also programmed to tell you when the statute of limitations is running out on age cases?

Ms. EHRLICH. Yes, because we put in the date of violation. Right now, I have a report as of May 31 that shows me that there are 7 charges in the office that are 18 months into the statute. That means we have 6 months to get them done.

When those computer lists come out by age, they go up on the walls of the supervisors' offices, and they get highlighted with a yellow marker to show which cases need to be done as a priority. Age cases are a priority. Retaliation cases are a priority.

The CHAIRMAN. When you were asked, then, to supply information on how many age cases might have exceeded the statute of limitations, what was the Houston office part in that chart over there?

Ms. EHRLICH. We were able to provide accurate information by the CDS computer back to fiscal year 1986 when we started entering it and, prior to that, manually. We lapsed—let me give you two categories of charges.

The CHAIRMAN. If you could just——

Ms. EHRLICH. A total?

The CHAIRMAN. Just tell me, first of all, which part of those numbers for fiscal year 1984, fiscal year 1985——

Ms. EHRLICH. In fiscal year 1984, we lapsed 1 charge, but the letter of violation had already been issued before the statute was up. So, that tolled it.

In fiscal year 1985, we lapsed 8 charges. Six of those charging parties filed a law suit before the statute was up, one charge was filed after the 2-year statute was up—and that is quite common, and we are told to accept an age charge even though the statute is up—and one subpoena enforcement action went beyond the 2-year statute.

In fiscal year 1986, seven charges were lapsed. One allegation was of a continuing nature, one was a subpoena enforcement action that went beyond the 2-year statute, two charges were resolved by a withdrawal with benefits, and one charge was filed only 20 days before the statute had lapsed.

In fiscal year 1987, we lapsed 24 charges. Most of those were filed against an out of the country Saudi Arabian oil company that we have been having a huge controversy with over jurisdiction, and those are in subpoena enforcement right now.

Three charges were filed after the 2-year statute was up, one charge was on suspense pending a jurisdictional issue, and one letter of violation was issued before the statute was up.

So, although cases were lapsed, everybody was notified prior to that time to assure that they knew what their rights were. We have gone one step further right now.

The CHAIRMAN. Did you give 1987?

Ms. EHRLICH. Yes. 1987 were the charges that had to do with the Saudi Arabian oil company.

The CHAIRMAN. Now, I realize that some of these are filed right near the deadline, and it is pretty hard to get much done before the statute of limitations would run out. When you say that they are notified before the statute has run out, I assume that is at least 60 days?

Ms. EHRLICH. In the past, we would notify them at least 60 days ahead of time. We have changed that procedure now. In the Houston office, when someone comes in to file an age complaint, that day when they sign their charge, we give them a form that tells them yes, you have filed with us; yes, we will do a vigorous investigation of your charge. However, we want you to know that your date of violation was 18 months ago and you must go into court by such and such a date. We actually give them the date by which they have to file.

As part of our intake counseling, we explain to them that regardless of whether we have made a determination—and sometimes we get bogged down in trying to get the accurate information—they should at least file the complaint in court to protect their rights.

So, those are given to every person who files an age case the day they come into the office to file.

The CHAIRMAN. And then a reminder when the time is almost up, within 60 days prior to the time it is actually up?

Ms. EHRLICH. Yes, letters do go out as well.

The CHAIRMAN. That does go out?

Ms. EHRLICH. I will have to double check that. I am pretty sure we are still sending those letters out, but I think it is critical to get their attention in the very beginning and to give them that piece of paper with a date on it so they know they have to file.

The CHAIRMAN. Now, how many—I assume that you have sent out notices to all those whose times have lapsed that there has been an extension.

Ms. EHRLICH. Yes.

The CHAIRMAN. How many did you send out?

Ms. EHRLICH. Those notices were sent from headquarters, and I don't have an exact figure for those. I presume——

The CHAIRMAN. Wouldn't you know if they are in your district?

Ms. EHRLICH. Well, I presume it was the number that I have told you for those fiscal years, but I think——

The CHAIRMAN. Wouldn't you want that information?

Ms. EHRLICH. Yes, I will be getting that information.

The CHAIRMAN. When do you expect to get it?

Ms. EHRLICH. I understand that guidance has been sent out from headquarters and will be back there when I arrive at the office.

The CHAIRMAN. It will be there when you arrive back?

Ms. EHRLICH. Yes.

The CHAIRMAN. Meaning next week?

Ms. EHRLICH. Yes.

The CHAIRMAN. But you do want it, do you not? Isn't that part of management?

Ms. EHRLICH. Yes, absolutely.

The CHAIRMAN. Thank you.

Senator Chafee?

Senator CHAFEE. I will wait until the other witness has testified.

The CHAIRMAN. All right.

Please proceed, Mr. Elkins.

TESTIMONY OF R. EDISON ELKINS, DIRECTOR, CHARLOTTE DISTRICT OFFICE, EEOC

Mr. ELKINS. I also do not have a prepared statement, but I did make a few notes.

I would like to focus primarily on the charge data system, our case tracking system.

It is not a perfect system, but it is an evolving and improving system. As we have worked with it, we have made suggestions for improving the system. There have been a number of updates with improvements in the system's operation.

The system meets my needs in terms of allowing me all the data, giving me all the data I need for managing my work load. It also meets my needs in terms of providing me the data I need for reports to Washington.

After establishing an accurate data base—and this did take some time in terms of making sure that all of our basic data was correct and accurate—and after we put in place a system for gathering information and entering it into the system and verifying it, the maintenance of the system is really quite easy.

To be effective, however, the data has to be absolutely up to date and to be accurate. I could have gone into my office this morning which would give me all the closures through yesterday, through the end of business yesterday. I could get a pending report this morning showing what is in my active work load through the end of yesterday.

This requires, as Ms. Ehrlich said, constant updating of data, entering data, gathering the information, and seeing that it gets into the system.

We also have achieved what I feel is a 99-plus percentage accuracy in our data.

My supervisors spend, on the average, probably less than an hour a month in verifying and correcting data for the previous month. What my supervisors have found is that the system really allows them much more time for supervising and managing their work loads.

I would like to make one comment about some of the testimony yesterday, and that is that someone talked about losing large numbers of charges in the system. If procedures are followed correctly, the worst case possible scenario is that we would lose 1 week's worth of data entry if the entire system crashed and we had to start over.

If, as the procedures call for, the data has been backed up on a weekly basis, the data base can be reconstituted and, at most, 1 week's worth of data entry has been lost and would have to be reentered, re-keyed.

The system works for us and, as I say, it meets my needs. We have worked with other offices in establishing similar systems. I think the key to why it has worked with us is not just the basic software which does track everything that we want tracked, but it is a system that we have put in place for getting the information and putting it into the system and then for extracting it.

One thing, Mr. Chairman, with your permission, I would like to comment on is I have recently seen some disturbing evidence that some respondents think that they can stonewall by not cooperating in our investigations and just wait until the 2-year statute of limitations expires. This is particularly true where the charge has been filed within, say, 4 or 5 months of the expiration of the statute.

It does present a problem in terms of trying to conclude those investigations if we have to go to subpoena and subpoena enforcement and the respondent is hoping that the 2-year statute expires before we can complete that process.

The CHAIRMAN. Mr. Elkins, somebody yesterday, one of the witnesses mentioned that your operation with the computer system seemed to be very satisfactory. Is there some reason why it is better in Houston and in Charlotte in the satisfaction of the personnel than it is in some other district offices?

Mr. ELKINS. I can really only speak to my own experience. I have been fortunate in that I have hired and we have trained very good staff for maintaining the system. There has been training available.

Every office had a number of positions dedicated to this function. Every office was given a management information specialist position. Those people have been trained in operation of the system.

I think what makes it work in Charlotte is my managers' and supervisors' dedication to getting the data in the system, for verifying it, and then using it. There was some initial reluctance when we first implemented the system. I think there was some concern that big brother in the form of the computer was going to be watching you and tracking your every action.

Once people got familiar with the system and saw that, in fact, it was going to be of tremendous assistance to them in managing their work load, in knowing when this 2-year statute was running, knowing the age of the cases, it has proven to be a tremendous management tool. It has also been very effective in assessing the performance of individual investigators.

I give my supervisors and I give the investigators, too, on a regular basis printouts of their resolutions to date, and it is all there for them to see, how many resolutions they have gotten, what types of resolutions, how many benefits they have obtained both in dollars and in terms of numbers of people benefitted, the type of closures, whether they are administrative closures, the percentage of total closures that are administrative closures, the average age of the cases when they were closed.

All of this information I make available across the board to my staff. There are no secrets.

The CHAIRMAN. How many notices of the extension of the 18 months for age cases went out in your district?

Mr. ELKINS. Approximately—I would say around 100. I don't have the exact figure, but I would like to point out that some of those notices went to people where they had filed after the 2-year statute had expired. Notices went to people where there had been settlements obtained after the 2-year statute of limitations. There were a number of charges that were filed under both Title VII and under age, and the charge was resolved after the 2-year statute had run.

It also is worth noting that in North and South Carolina, the Federal courts, up until just recently, have generally held or generally applied the 3-year statute of limitations instead of the 2.

The CHAIRMAN. Three year?

Mr. ELKINS. Right, and whenever we went into court, there was never a problem in terms of getting the 3-year statute applied.

The CHAIRMAN. Well, the 3-year applies when the court determines it is willful?

Mr. ELKINS. Right.

The CHAIRMAN. Mr. O'Dell earlier said, Mr. Elkins, when he was testifying on his analysis for the GAO that the data provided to this committee in March by each of the district offices from their local computer system is irreconcilable. Can you enlighten us on that?

Mr. ELKINS. Yes, and I——

The CHAIRMAN. He didn't say every office except Houston and Charlotte was irreconcilable. He said every district office. I wonder——

Mr. ELKINS. I think in my own response to you I said that I had some irreconcilable data, primarily because our current computer system only went back to 1986, and that data we were fairly certain of. For data that I was able to obtain for dates prior to 1986, I

relied primarily upon manual records, old reports, and that data I was less certain of.

To give you an example, prior to, I think, 1987 when we reported cases that had been closed in intake, because they were nonjurisdictional or someone came in and said they wanted to file a charge and then before we even began to investigate it, they called in and said no, I don't want to proceed, just withdraw the charge—those were not reported broken down by statute. So, all of those charges that were closed in intake were just on one group, and it was impossible from those reports for that period to say under what statute they had been filed and closed.

It has only been in recent years that we now maintain records on all the statutes under which the charges have been filed.

I might also say, under the general guidance that we were given from headquarters—and my own feeling was certainly in concurrence—was that we wanted to err on the side of sending out too many of the notices rather than trying to send too few. If anything, we sent out notices that were not warranted, but we wanted to give charging parties every chance to pursue their claims if possible.

The CHAIRMAN. Did you sent them all out? The information I have is that part of those notices were sent out from headquarters and part were sent out from——

Mr. ELKINS. Right. Most were sent out from headquarters.

The CHAIRMAN. Did you send any out?

Mr. ELKINS. I did send some out, yes, based upon——

The CHAIRMAN. Do you know which ones they sent out and which ones you sent out?

Mr. ELKINS. I have, but not with me, a list which——

The CHAIRMAN. You have their list?

Mr. ELKINS. Right, and I have, of course, the list that we sent out.

The CHAIRMAN. How did you get that list? I just wonder what the system is. You asked for it?

Mr. ELKINS. I asked for it, but I understand it is going to be sent out to everyone. I just happened to be in Washington.

The CHAIRMAN. Yes, I assume it will be, just as Ms. Ehrlich said. She didn't have it yet, but she assumed she would have it next week.

Mr. ELKINS. Right.

The CHAIRMAN. Mr. Elkins, how did your office do in that Commission's quality of work life survey that was taken last December?

Mr. ELKINS. Generally, I was pleased with the results. If I may, I have——

The CHAIRMAN. That bothers me, because I don't know how to interpret that. I am interested in your views on that, but it bothers me that 51 percent of your personnel said, concerning communication and flow of information within the EEOC, it was unsatisfactory. That is over half. It is on page 38.

Mr. ELKINS. Okay, Charlotte: 49 percent unfavorable, 50—that, I might point out, is one statistic. I think, generally, 87 percent of the people said that they felt safe in their jobs; 77 felt that their evaluation was fair, that they stood a good opportunity of advancing according to their abilities; 75 percent felt that the work in our office was above average quality; 75 percent felt that people, re-

gardless of handicaps, were given the same opportunities for advancement and growth; and 73 percent——

I mean—I think the primary point about the quality of work life is it did point out some problems in areas in which we would like to make improvements. What it did give us was something to look at, and I am looking at those areas that were not rated that favorably and seeing what we can do to improve.

Generally, I think it is fair to say that the morale in my office is quite high, and part of the reason that it is quite high is that the people are generally pleased with the job they are doing.

The CHAIRMAN. They are what?

Mr. ELKINS. They are generally pleased with the job they are doing. They are generally pleased with the quality of work.

The CHAIRMAN. Well, I don't know exactly how—after all, this is sort of a poll taken by the Commission itself.

Mr. ELKINS. Right.

The CHAIRMAN. I am not sure I can interpret what is meant by flow of information within EEOC, but when 51 percent say it is unfavorable, it has to be something.

What do you do to make sure that is corrected?

Mr. ELKINS. In my office, I put out—and I will be happy to give you a copy—a monthly newsletter which contains quite extensive statistical information on how the district is doing in terms of meeting agency goals, how individuals are performing.

The CHAIRMAN. Perhaps this goes beyond the district office, though. Is that part of it?

Mr. ELKINS. It could be. I make it a practice that I forward to all of my staff generally any communication I have from Washington regarding general policy developments or Commission direction.

The CHAIRMAN. Well, I am just drawing it to your attention.

Mr. ELKINS. Sure.

The CHAIRMAN. It is a little bit disturbing to me, because I think it is a real knock on something.

Mr. ELKINS. Right, right.

The CHAIRMAN. If everybody is happy in the district office, fine, but why this then? Does that reflect that they don't know what they are getting from Washington or headquarters?

Mr. ELKINS. It certainly points out that we can make improvements in that area, and I intend to look into what is behind it.

The CHAIRMAN. Well,——

Ms. EHRLICH. With your permission, Mr. Chairman, may I comment on the QWL study?

The CHAIRMAN. Let me get to one more point with Mr. Elkins on it, and then I would like to hear your response to the same points.

Forty-three percent of your personnel, Mr. Elkins, in your office were questioning or put "not favorable"—that is the term that was used—a "not favorable" response on what their understanding of their job requirements was.

Mr. ELKINS. We may be looking at different data or maybe it has been interpreted somewhat differently. My summary says that 73 of the people replying said that they usually have the information necessary to do their job well.

The CHAIRMAN. It is here in this committee's staff report that I am looking at, understanding job requirements dimension.

Mr. ELKINS. Right. Well, I have not seen this report. It is not the report that I have been provided by the Commission. My information, again, says 73 percent of the people in my office felt that they had all the information necessary to do their job well.

The CHAIRMAN. Well, the staff report says 43 percent seem to be saying not favorable on their understanding of their job requirements.

Mr. ELKINS. Right. I would have to see the data that was pulled together to come up with that statistic. Certainly, if that is the case, I would say we have a problem that really needs immediate attention.

I do have in place a joint labor-management training committee, and we do extensive in-house training. When we get new employees on board, we give them in-house training. We do not wait for some national training. I have two training officers. My training committee is organizing everything from seminars to on-the-job training.

The CHAIRMAN. Well, it is confusing to us.

Mr. ELKINS. Right.

The CHAIRMAN. Chairman Thomas can probably enlighten us some on it.

Ms. Ehrlich, would you please respond to those same two points?

Ms. EHRLICH. Well, for communication and flow of information, slightly more than half my staff were favorable. Actually, I was even a little alarmed at that, although that is probably pretty good when you compare it to the public and private sector and how people feel about their jobs.

The way I look at it is that it was a very risky thing to do, but it is an excellent management tool to find out what people think and how you can improve. I think that is the value of it, not that people are unhappy but, now, what do we do to improve those areas.

With 52 percent of the people very favorable about communication, that meant that 48 percent weren't. We started a series of rap sessions.

We started first with the clerical support which are the most overlooked, often, and the hardest workers, sometimes, in the office. We got them together in a room for an hour without any managers present, let them talk about some of their concerns, some of their needs that hadn't been expressed, because there is not often time, with the huge amount of work that is going on, to really have that kind of flow of information.

They had a self-appointed leader. She made a page of notes. I came into the room after an hour, and they listed some concerns.

One of their concerns was that they wanted training in our different statutes that we enforce, that they felt it would help them understand the pieces of paper they were handling better, and we have begun that.

Others expressed a need to have more sophisticated training on the word processors. We have begun 1 hour three times a week. Anybody who wants to show up can, and our management information specialist will do the training.

So, I think this kind of report is really only as good as what you use it for. Yes, it is risky to ask people, do you like us? Are you

happy? Do you understand your job? You are always going to get a mixed bag of responses, but what happens after that is really critical.

I think it is a very good management tool, and it makes us wake up and see what the real world looks like.

The CHAIRMAN. I guess you would say the same for that other point. Like Charlotte, 43.6 percent said they didn't understand their job requirements.

I guess your response would be about the same, it is a good management tool and it is notification that you ought to do something about it.

Ms. EHRLICH. Well, yes, but, again, my summary——

Senator CHAFEE. Mr. Chairman, I am not quite sure of the line of questioning here, but I am anxious to hear the chairman when we get to him. Were these same questions asked of the directors yesterday? Is this a standard line of questioning here?

The CHAIRMAN. Yes, the directors did respond to this. I don't know that we asked them the same questions.

Well, you want to get to the director——

Senator CHAFEE. It sort of reminds me of political polls, Mr. Chairman. We have all had these political polls. How do you view him? Very favorably, favorable. What is your reelection standing——

The CHAIRMAN. How is it, by the way, John? [Laughter.]

Senator CHAFEE. Well, I happen to have it here. [More laughter.]

You know, we can spend all day here on what your rating is on flow of information, and I am not sure what the results would show if any of us ran this in our offices, Mr. Chairman.

The CHAIRMAN. Maybe we should have one.

Senator CHAFEE. Do you believe we should have an EEOC in the Senate for Senate employees, but I just hope we can get on with hearing the Chairman, Mr. Chairman.

The CHAIRMAN. I just have two more questions of Ms. Ehrlich, and then I am through and will yield to what either one of you might have.

In reporting about the system, just so we understand this, you were talking about an IBM-PC computer system, were you not?

Ms. EHRLICH. No, I was referring to the CDS system.

The CHAIRMAN. All right, you were testifying on the CDS system.

Ms. EHRLICH. Yes.

The CHAIRMAN. Both of you were.

Mr. ELKINS. Yes.

Ms. EHRLICH. Now, our office did have what the Phoenix director had referred to as the Picksem system that he had developed before we had the CDS system. We found that did not suit our needs, that there is much more information that can come out of the CDS system that exists today. We can get any report we want based on any of the data that is inputted, and because we have over 15,000 entries, the system can handle it.

The CHAIRMAN. I just want to check one figure, because we are getting a little bit confused on what is on that chart there.

Our count for your district is 69 charges that ran the statute in fiscal year 1987. Is that inaccurate, or have we got both fiscal year 1987 and the first quarter of fiscal year 1988? It seems to me——

Ms. EHRLICH. For 1984 through 1987, that looks like it is correct. There were an additional 23 charges against one grocery chain that exceed the 3-year statute that wasn't listed under the 2-year statute, and those particular——

The CHAIRMAN. I am just saying for fiscal year 1987 through the first quarter of 1988. So, it is a little more than a fiscal year.

Ms. EHRLICH. My count for fiscal year 1987 is 47 charges.

The CHAIRMAN. Well, our information is inaccurate then. We have 69.

Ms. EHRLICH. Well, the committee staff might have misunderstood the data that I presented, but the number that I reported was 47, and those were the charges against a company in Saudi Arabia which were half of those, and the other half was basically against this grocery chain where parties had already filed suit but we were continuing an investigation.

The CHAIRMAN. I can accept that we have inaccurate information on this, because we can't arrive at the right numbers that headquarters has for fiscal year 1987 as compared to what the total is supplied by the districts for fiscal year 1987.

As you can see on those two charts, that is the purpose of that chart. The 350 for fiscal year 1987 was obtained from the districts. Yet, headquarters says there should be 1,200.

Ms. EHRLICH. Well, I think the systems that are in effect do differ in the offices, depending on how accurate their information is. To the extent that you are relentless in making sure that accurate information is going in and that everything is covered, that it is double checked against your manual data, and that you feel comfortable with the right numbers, I can see how that might have been underreported. I think there may have been some misinterpretations as well, as to the definitions of what was called for.

The CHAIRMAN. We also have something I would like you to clarify. Now, 32 of the 69 charges—I believe you said 47. This may be inaccurate information that we have, too, but 32 of the 69 charges exceeded the statute for reasons that were unacceptable, and I believe headquarters indicated that they were unacceptable. Is that true?

Ms. EHRLICH. Well, depending on what your definition of unacceptable is. My explanations to you in detail were that charges were filed after the 2-year statute, that many were in suspense because of jurisdictional issues, that one was of a continuing nature, that some were resolved, that people had already filed law suits.

If those were lumped together as unacceptable, I don't know. I don't know what the definition of that is.

The CHAIRMAN. We will ask Chairman Thomas.

Senator Chafee?

Senator CHAFEE. Thank you, Mr. Chairman.

As a Government employee, I want to say to fellow Government employees out here that I think you have given good testimony.

Ms. EHRLICH. Thank you.

Senator CHAFEE. And I commend your office for trying to encourage the staff and everyone with your Golden Pizza Award. I think that is innovative.

Let me ask you a question just so we can kind of get this in perspective. If there is such a thing, what is a typical case that would

come along with age discrimination. I am not asking for a big overview. I am just curious. Would a normal—and I know we are using generalities—but would the normal case be for somebody under 65 as opposed to those over 65?

Ms. EHRLICH. I would say yes. The normal case——

Senator CHAFEE. In other words, back home where I come from, people are very anxious to retire at 62 and extremely anxious to retire at 65. So, we don't have many people wishing to stay on, although three cheers if they do, over 65.

So, I am curious about it. Would it be a 45-year-old or 55-year-old?

Ms. EHRLICH. The last time we did a survey on the average age of a charging party, I believe it was a 55-year-old white male earning approximately $35,000 a year. That is the normal kind of age discrimination charge.

You don't get too many that are 41 and 42 and 43. I would generally say they are in their fifties where they are not hired for jobs or where a company is reorganized and, all of a sudden, they find themselves out of a job, a new name perhaps given to those tasks and a younger person appointed to it, perhaps a younger person who is also within the protected age group. It may be someone 41 who replaces a 56-year-old.

Senator CHAFEE. Now, would you very often see cases over 65? Here we extended this. I was all for the law several years ago.

Ms. EHRLICH. In the Houston office, no. I don't often see that.

Senator CHAFEE. I am just curious how many people really actually use it.

Ms. EHRLICH. I would have to check my work load, but I don't often see that.

Senator CHAFEE. No, you don't have to check it. I am just curious from your anecdotal experience.

How about you, Mr. Elkins? What do you see?

Let me just start off by saying about 20 to 35 percent of your caseload under EEOC is aging?

Ms. EHRLICH. It is 20 percent in our office.

Mr. ELKINS. About 20 percent in our office.

Senator CHAFEE. The rest are male, female, gender——

Mr. ELKINS. Race, sex, right.

Senator CHAFEE. Now, what would you say? Do you see many over 65?

Mr. ELKINS. No. I have seen two that I recall in the past 6 months.

Senator CHAFEE. A typical case would be the 55-year-old?

Mr. ELKINS. Right. In North and South Carolina in the past 2 years, there has been a lot of mergers, consolidations, cut-backs, and our typical charging party is a middle aged white male who was in mid-level to upper-level management.

Senator CHAFEE. Then there is a merger.

Mr. ELKINS. And there is a merger, and they have two comptrollers, and they come out with one.

Senator CHAFEE. Out goes one.

Mr. ELKINS. Yes, and they may have worked with the company for 15 years and suddenly find themselves without a job.

Senator CHAFEE. Now, again, I am not asking for precise data. I am asking generalities.

So, your first effort is a reconciliation of some type, non-court. How do those work out?

Ms. EHRLICH. As far as voluntary settlements?

Senator CHAFEE. Yes.

Ms. EHRLICH. I would say that our first effort, really, is to conduct an investigation at this point. With the Commission's new enforcement policy, we do a full investigation on every charge that is filed and then attempt to settle.

If we find a clear violation, I think chances are very strong that we will settle it for full relief without having to go through a law suit.

Senator CHAFEE. Is a typical settlement a financial settlement or is it a rehiring?

Ms. EHRLICH. It would be a—full settlement would consist of someone being reinstated on their job unless they did not want to go back. It would definitely cover back pay and any benefits that might have been lost. It would also focus on the discriminatory practice that contributed to that as well as perhaps a posted notice in the firm advising employees of what the company's policy would be and a promise not to do that again.

Senator CHAFEE. Now, getting back to the record keeping and the overdue cases, the cases that go beyond the statute, you get your situation in which you have your Saudi Arabian firm that disappeared somewhere. I take it that every case can't be settled or some kind of a judicial settlement even be arrived at because of the circumstances. Is that correct?

Mr. ELKINS. Sometimes there is just no basis for the allegations.

Ms. EHRLICH. You mean within the 2-year time frame?

Senator CHAFEE. Yes, I am talking about the 2 years.

Ms. EHRLICH. Correct, if people come in after the 2 years, which is not infrequent, those certainly can't be. If they come in very close to the 2 years, there is a provision in the law that allows for a dismissal without an investigation, an attempt to conciliate and then dismiss the charge under section 7(d).

However, because the enforcement policy mandates an investigation of those charges to see whether or not there is any discrimination against that charging party, we don't want to dismiss them without an investigation. That really is a way to avoid lapsing anything, but you are really not fulfilling the mission of the agency when you do that.

Senator CHAFEE. What we would like to see is we would like to see no cases beyond the statute of limitations. That would be great, but the flow of circumstances, people coming in late and so forth, don't make that really a possibility, I presume, judging from what you have said.

Ms. EHRLICH. That is correct, but it certainly is a goal to the extent that we are capable and it is possible.

Senator CHAFEE. All right, fine. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Durenberger?

Senator DURENBERGER. I have no questions, Mr. Chairman.

The CHAIRMAN. You are discharged from your responsibility when you have made that determination that there is no basis for the charge simply by notifying the complaintor 60 days ahead of the statute of limitations. Isn't that true?

Mr. ELKINS. Whenever we issue what we call a no cause determination, we advise them of what their rights are to file suit.

The CHAIRMAN. Well, and your guidelines tell you that you should do that at least 60 days ahead.

Mr. ELKINS. 60 days, right.

The CHAIRMAN. To allow them, if they disagree, to file in court. Isn't that true?

Mr. ELKINS. Yes.

The CHAIRMAN. Thank you.

Ms. EHRLICH. But, frequently, we may be continuing an investigation when we notify them. We will notify them and say we have not yet completed it.

The CHAIRMAN. Yes, I understand that. You haven't completed your investigation, but you still notify 60 days ahead of time that the statute of limitations is running out so——

Ms. EHRLICH. Yes.

The CHAIRMAN. So they have that opportunity to file in court if they want to, and I believe you earlier stated that you advise them of this right at the outset. Is that true?

Ms. EHRLICH. That is correct, in writing.

The CHAIRMAN. Thank you. Thank you both very much. I think you have been very helpful.

Ms. EHRLICH. Thank you.

The CHAIRMAN. Now, we will hear from Chairman Thomas.

Might I just make this announcement that there may be a vote within 2 minutes commencing. So, Chairman Thomas, we will conduct our business on the floor as rapidly as possible in order not to hold you here too long.

[Witness sworn.]

The CHAIRMAN. Please be seated, Chairman Thomas, and please proceed.

TESTIMONY OF CLARENCE THOMAS, CHAIRMAN, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION; ACCOMPANIED BY JAMES TROY, DIRECTOR, OFFICE OF PROGRAM OPERATIONS

Mr. THOMAS. Good morning, Mr. Chairman and Senators.

I appreciate the opportunity to once again appear before this committee. I would like to put this whole issue of automation and the missing of the statute of limitations in the age cases and what we are doing into context. I would like to start with automation because it is easy for anybody to take a static picture of the agency and, of course, criticize. It is much, much more difficult to live with the reality.

When I arrived at EEOC in May 1982, I was greeted on the same date of my arrival, May 17, with a GAO study pointing out many of the ills of the agency. In an effort to make changes, information was required. In obtaining that information to make the necessary decisions in all areas, I just about passed out when I saw the quality of the information that we had.

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It was for those reasons or for that reason that we started down the road of building data systems so that we could have reliable management information.

Now, the first area that we automated was the budget and finance area which was pointed out again in the May 17, 1982, GAO study. In order to do that, we had to bring in computers. We had to hire accounting firms, and we had to, of course, get GAO approval of our accounting system which we did 2 years later.

I might add that contracts, and accounts, things that were required by Congress were not done in up to as much as a decade at EEOC. We caught up the agency.

We had vendors who would not deal with the agency because we would not pay our bills on time. We had outstanding travel accounts of over $1.5 million, and the list goes on and on. We lapsed significant amounts of money back to Treasury because we could not count the money that we had on hand which was particularly important during an era of continuing resolutions.

The personnel area—we had a manual personnel system and an automated payroll system. That is a formula for disaster—disasters including paying the dead. We had to automate, then, the personnel system. That has been done.

We bought the first personal computer in EEOC in the winter of 1983, to give you a perspective of when we started. We have approximately 1,100 personal computers now.

And all of this was done with not one penny appropriated for those purposes. The way that we were able to build the automated systems that we have and that were necessary was simply by managing our money and by trying to live through the uncertainty in the appropriations and continuing resolutions process.

Those were extraordinarily difficult budget years. I don't need to repeat them for anybody.

I saw that the only way for EEOC to survive was to have strong management information systems in all areas.

Now, with respect to the system at hand, that started with the CSRS. That was an entirely separate system. It is one that we inherited. That was our central data system of a bygone era. It was outmoded hardware. It was about a decade old when I got there. The data was irretrievable on a local level, and it was unreliable once it was retrieved.

The information that was put in in the field and could not be corrected in the field, could not be retrieved in the field, could not be used in the field. The only thing that could be done was to have the information go to them on a quarterly basis. They would correct it from their manual information.

We tried initially to enhance that system. We were unable to do so, and we failed. It still didn't work.

So, in fiscal year 1986, I shut the system down and began building CDS.

I might also note that fiscal year 1986 was the end of my first term and the beginning of my second term, and it was precisely for this reason, among a few others, that I sought a second term—to build a central data system that worked. You can't do it if you come in for 18 months.

So, we began building the system, emphasizing the provision of a local data base, that is, to give the capability to the offices to manage in the field. This is what we did not have before.

We also wanted to give them a menu not only for the required reports but also the flexibility to do other reports.

Again, I might add that we had no appropriations for the project. Therefore, it was done in a piecemeal way, and the system had to evolve.

The annual cost to do the system right far exceeded our annual budget that we had and it certainly exceeded our experience at that time with such a large system.

Making the system work, as I said before, was one reason I stayed on board, and it will work before my tenure ends. Then, my successor can improve upon it, but there will be one system there.

With respect to the Quality of Work Life Program, I never thought that the purpose of the quality of work life was to take a poll, a popularity poll of any sort, but, rather, it was to make a full report available to us. And the report that this committee is using today is not the full report, and a number of those categories have been collapsed and are erroneous.

The program, QWL, started at my behest for the purpose of finding out what our employees thought was important, what we needed to do to make the quality of work life at EEOC better for them. That was codified in agreement with our union.

We have a QWL committee. The vice chairman of the agency is a member of that committee and also chairs it. This committee and its work has been high priority with EEOC, and with me. It was initially informal. It is formalized now, and it is working.

The study was an effort to ferret out problems and then to address the problems. It was not—and, of course, we did run this risk—it was not intended to be used against us.

The major drawback of self-analysis, of course, as all of us know, is that once you expose any wrong, it can, indeed, be used against us as it is now being used.

With respect to the Age Discrimination Claims Assistance Act and our response and implementation.

The CHAIRMAN. Might I just interrupt you there? I don't want to lose the train of your thought and the train of your testimony, but when you say used against you, how——

Mr. THOMAS. Well, in the sense that it is now used, then, to criticize us. It is a self-critical analysis. We ran the risk that people who were disenchanted, people who were not performing well, people who were upset, whatever, that they had a process now through which they could complain, and some people do that whether it is correct or not.

What we want to do is where we are weak is go back. For example, you mentioned the communications area. Communications, to me, is bad. The data is wrong sometimes. That is an area where we certainly would go before we went to some other areas.

There are other——

The CHAIRMAN. I don't suppose all of your employees are members of the union.

Mr. THOMAS. In fact, a small percentage are active members.

The CHAIRMAN. You feel it is constructive, do you not, for morale overall?

Mr. THOMAS. Oh, yes, it is. In fact, the reason we have the Quality of Work Life Program, Mr. Chairman, is precisely because of morale and working conditions. The union is a member of the committee.

The CHAIRMAN. Yes, and they are not complaining. They are part of it.

Mr. THOMAS. They are part of it, and it is a part of the collective bargaining agreement. The reason that I put this together several years ago—I started with just one part-time individual working on this, trying to pull it together, because it is important for us with the amount of work that we have, with the criticisms that we have received, with the sort of rare feedback, positive feedback, that we get to at least have a program in place in the agency where people feel that they can participate or at least say something that is heard and then changes are made that reflect their concerns.

This was an effort to get that down on paper and then have feedback.

The CHAIRMAN. I personally commend you for having it. Ms. Ehrlich just testified it is a good management tool and very much useful in management.

Please excuse me. I will have to go for the vote now, and we will return as quickly as possible.

The committee will be in recess for 15 minutes.

[Recess taken.]

The CHAIRMAN. The committee will come to order.

Chairman Thomas, would you please proceed?

Mr. THOMAS. Thank you, Mr. Chairman.

With respect to the Age Discrimination Claims Assistance Act and our response to our obligations, our Office of Program Operations, together with our Offices of General Counsel and our Legal Counsel, have worked closely to locate any and all cases and charges which could possibly, under any circumstances, be subject to the act. Even when on their face the charges might not be covered by the act itself, we sent notices anyway.

For example, we sent notices for charges that were filed too late with us and charges that were filed with us after the statute of limitation had passed.

The number of notices that we sent out was approximately 7,500. The instructions were sent to the field in late May with respect to these charges, and last Wednesday, we sent subsequent and follow-up instructions.

This is being monitored closely, and we will certainly keep the committee apprised.

In conclusion, I would like to state that, from the very beginning, we admitted that the age cases were missed. We appreciate what Congress has done in response to this problem by passing the Age Discrimination Claims Assistance Act.

The age cases, I would like to note, because of the statute of limitations, are the highest priority of our work load, even though it is only 20 percent of our work load. Age cases will take precedence over other areas such as race, sex, national origin, and religion which do not have a statute of limitations.

Ultimately, as far as I am concerned, the only lasting solution, as long as a statute of limitations exists in the Age Act, must include but not be limited to a substantial increase in the agency's budget to a point where it can process all of its cases in a timely as well as a high quality manner.

With that, Mr. Chairman, I will respond to whatever questions you might have.

[The prepared statement of Mr. Thomas follows:]

TESTIMONY OF CLARENCE THOMAS
CHAIRMAN, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
BEFORE THE SENATE SPECIAL COMMITTEE ON AGING
JUNE 24, 1988

Good morning, Chairman Melcher and members of the Committee. I am here today to discuss the Equal Employment Opportunity Commission's administration and enforcement of the Age Discrimination in Employment Act.

The Equal Employment Opportunity Commission is proud of its record of vigorously enforcing the Age Discrimination in Employment Act and the other laws it enforces. This Commission has implemented major policy and management initiatives to establish EEOC as an effective, credible law enforcement agency.

The Commission's major policy initiatives include:

. an enforcement policy which calls for every case of discrimination which fails conciliation to be presented to the Commission for litigation consideration;

. a remedies policy which calls for a full remedy to be sought in every case where discrimination is found;

. an investigative compliance policy to enable EEOC to deal more effectively with respondents who fail to cooperate with Commission investigations; and

. a method for charging parties to appeal to EEOC headquarters determinations by field offices that no cause has been found to believe discrimination has occurred.

This Commission's policies have translated into tangible results for victims of discrimination. Litigation activity has increased to record numbers of cases filed. Monetary benefits for victims through litigation and compliance reached all-time high levels during this Commission's tenure.

A number of administrative and management tools have been employed by this Commission to support the agency's enforcement program. Among those tools are improved financial accountability, computerization, a streamlined organizational structure and implementation of a Commission-wide quality assurance program. Emphasis on quality investigations has significantly contributed to the increased number of cases recommended for litigation by field offices.

In June 1987, EEOC for the first time in Commission history comprehensively trained virtually all field investigators. Such training now is part of the Commission's staff development program. The Commission recently won approval from the Office of Personnel Management to convert the agency's Equal Opportunity Specialist positions to Investigators, reflecting EEOC's increased emphasis on conducting full-scale investigations.

The Commission also has developed unique, personalized outreach programs designed to augment the deterrent effect of its enforcement through public education and assistance.

In every year since 1982, Congress has appropriated less money for EEOC than the President requested. At the same time, this Commission has made enormous progress in enhancing EEOC's professionalism and effectiveness in enforcing the laws against employment discrimination.

Charge Data System

One of the long-term concerns of the Commission has been the need to upgrade EEOC's field and headquarters office automation capability. When I became Chairman in 1982, each office had its own budget for office automation equipment. The agency had no personal computers and had an outmoded computer mainframe housed in a poorly-controlled environment. The system was frequently inoperable due to overheating. Because funds were not available to replace the system at the time, and thinking that the existing system might be improved enough to serve the agency's

needs, the agency attempted to salvage the Complaint Statistical Reporting System (CSRS). An automated data processing center with appropriate temperature controls was built during fiscal 1983. The following year, the Commission approved the use of State and Local funds for the design, development and implementation of a case tracking system for charges being handled by Fair Employment Practices Agencies (FEPAs) with which EEOC contracts.

The accuracy of the data produced by CSRS was unreliable, field offices were unable to use the information they loaded into the system for local management purposes and the system being developed for FEPAs was not linked with district offices and headquarters. By fiscal 1985 it was evident that the basic design problems and operational inefficiencies in CSRS could not be fixed.

Realizing that standardization was the key to a workable computer system, I decided to have the internal charge tracking system redesigned and installed in the field. Specifically, the new computer system had to provide local offices with data bases which they could use for managing and reporting cases; link FEPAs, district offices and headquarters; and create an accurate national data base.

The installation of the new Charge Data System (CDS) began in fiscal 1986 with the first version of the local data base and simple reports. The national data base also was tested at headquarters. In May 1986, CSRS was discontinued and its data archived. Manual reports by field offices, which had been a necessary backup to CSRS and often had proven to be more reliable than the system, were used during the transition to CDS. Staff began to upload the field office CDS data to the national data base in fiscal 1987. All EEOC District, Area and Local offices and most FEPAs now have operational local data bases for case tracking and management.

The system's applicability to effective case management at the local level is one of its strongest assets and most valuable features. The capability to generate charge tracking reports has been available for some time in all district offices. Some offices have routinely generated such reports, and after I learned that the statute of limitations had been missed in hundreds of ADEA charges, all field offices were required to generate local charge tracking reports. Managers can use the reports to regularly monitor the status of ADEA charges and determine how near a charge is to the expiration of the statute of limitations. The reports clearly show the number of days elapsed from the date of an alleged ADEA violation to the date of the report. A report can be generated for each investigator and provides supervisors and top management with regular and accurate case status information. In addition, ad hoc queries and special reports can be rapidly generated by each office.

The projected annual savings in staff time provided by CDS is expected to exceed the full amount the agency has spent piecing the system together since fiscal 1985. The Commission spent about $3.5 million over a three and a half year period to replace CSRS. CDS saves management time that had been required simply to track and monitor the status of charges. The availability of up-to-date local CDS status printouts saves investigative time as well. Based on field office experience, roughly $3.2 to $4.5 million (60 to 85 staff years) in supervisory time and approximately $1.2 million (34) staff years in investigative time can be redirected to enforcement each year because of CDS.

The transition from CSRS to CDS has not been without frustrations, nor have all planned elements of the project been completed. The Commission has encountered innumerable obstacles related to the agency's budget. I have regularly testified before the agency's appropriations subcommittees seeking additional money to be spent on automation, but every year since 1982 Congress has made less available for EEOC than requested by the President. In fiscal 1988 alone, the agency's appropriation was $13.6 million less than requested. EEOC has had to piece together CDS by delaying purchases and contracts until late in the fiscal year to see if funds become available for reprogramming.

Some offices have different hardware because money was not available to supply all offices with the same equipment. Adjustments have been made to the software because of the hardware differences. Recently, operation of the national data base was suspended for two reasons: it was not fully meeting the agency's expectations and the suspension of the national data base would provide needed savings for the agency without hampering local CDS use. Other planned enhancements of the local case management component of CDS will not be completed this year due to current budget constraints.

While CDS is an improvement over CSRS in terms of its effectiveness as a local management tool, it has not met the agency's expectations for national information. The costs and complications of using an off-site mainframe for hundreds of data inquiries a year mount quickly. Affordable computers that can handle EEOC's current and future needs have recently become available, and I have instructed the staff to focus efforts on developing an in-house computer system.

Age Discrimination Claims Assistance Act

Office of General Counsel

Even before the Age Discrimination Claims Assistance Act of 1988 was signed by the President on April 7, the Office of General Counsel had begun taking action to meet the requirements of the new legislation. A copy of S. 2117 was sent to each regional attorney on March 30, with instructions to consult with headquarters for guidance on the impact of the legislation on recent cases authorized by the Commission before filing those cases (see Attachment A). At the same time, the General Counsel asked the regional attorneys to identify any case in active litigation where there was any doubt that the two year statute of limitations without tolling may have expired in order to determine whether ADCAA may be applicable to those cases.

On March 31, 1988, the General Counsel established four task forces to:

1) develop proposed guidance concerning ADEA suits authorized by the Commission but not yet filed and any language changes which may need to be incorporated in future ADEA complaints;

2) assess cases where EEOC is currently arguing in district or circuit courts that a violation is willful for statute of limitations purposes or that tolling for conciliation extends the otherwise applicable statute of limitations;

3) assess suits or claims previously disapproved for litigation for statute of limitations reasons, including possible resubmission of such cases or issues. Identified charging parties would be notified as required by ADCAA; and

4) develop a plan for handling "cause" cases arising from claims restored by ADCAA.

The General Counsel held a conference call with the Commission's regional attorneys on April 12 to discuss ADCAA and enforcement issues raised by the law (see Attachment B). The basic provisions of ADCAA were discussed during the call, as well as the following issues: whether ADCAA applies to directed investigations initiated by EEOC; whether ADCAA applies to claims where the two-year, but not the three-year, limitations period had expired; whether ADCAA applies to cases which already have been dismissed by the courts for limitations reasons and whether cases in active litigation may be amended to reflect the provisions of ADCAA.

On May 11, the General Counsel issued a guidance memorandum to regional attorneys which stated that after analyzing the legislative history, purpose and terms of ADCAA, the Office of General Counsel had concluded that "ADCAA revives cases which have been, or which might be dismissed on statute of limitation grounds," but that "ADCAA does not normally permit EEOC to sue upon claims uncovered during the course of a directed investigation . . ." In reaching the latter conclusion, the General Counsel explained that the purpose of ADCAA was to restore litigation rights to individuals who had filed charges with the EEOC. Further, ADCAA requires the filing of a timely charge in order to invoke the rights restored by ADCAA and there was no legislative history concerning directed investigations initiated by the Commission (see Attachment C).

Meanwhile, over a period of three weeks, attorneys in the General Counsel's office identified 687 presentation memoranda involving potential ADEA suits which had been submitted and received by headquarters between fiscal 1984 and the early part of fiscal 1988. Copies of all but 53 of the 687 presentation memoranda were located and reviewed for the purpose of identifying charging parties who should receive notice specified by ADCAA and determine those cases in which OGC had recommended against litigation solely because of statute of limitations problems which would be cured by ADCAA. As a result of this review, OGC identified approximately 30 cases for further review and possible resubmission to the Commission for litigation consideration under ADCAA. One hundred twelve cases which had been rejected for litigation because of evidentiary or legal reasons, rather than statute of limitations problems, were identified for the purpose of notifying charging parties as specified by ADCAA. Finally, OGC identified those cases which did not require the notice specified by ADCAA because the case was based on charges filed prior to December 31, 1983, or the Commission or the private individual had filed suit prior to the effective date of ADCAA. One hundred seventy-two charging parties were sent notices specified by ADCAA as a result of OGC's review.

In many of the 30 cases that were identified for possible resubmission to the Commission under ADCAA, it was determined that the evidence supporting the alleged violation was too weak to warrant litigation consideration by the Commission. OGC did resubmit three cases for litigation consideration under ADCAA: one case had been authorized for litigation, and other was returned to the district office to clarify several evidentiary questions concerning the merits of the case and the Commission has yet to act upon the third.

OGC analyzed the impact of ADCAA on three litigation recommendations received between late January and late March 1988. Presented to the Commission in April, two were approved and one disapproved because of evidentiary reasons.

Office of Program Operations

Even before ADCAA became law, the Office of Program Operations, the Office of General Counsel and the Office of Legal Counsel established a task force to carry out EEOC's statutory responsibilities.

After analyzing the new law, a fact sheet and letter were developed to inform affected charging parties of the provisions of the law, what EEOC intends to do with the charges and how individuals can proceed with their claims (see Attachments D, E and F).

To identify the charging parties covered by the law, EEOC made use of every source of information available (see Attachment G). With the assistance of EEOC's Information Systems Services (ISS), information on the charges falling within the time limitations of ADCAA was retrieved from the original records in CSRS and current records in CDS. Specifically, the agency sought information on the date of the alleged violation, the timeliness of the charge and the date of closure, if any. A computer program was written to extract the necessary data directly from the field office computers. ADCAA covers charges filed as early as Jan. 1, 1984, and some the older charge files had been destroyed. Since enactment of the Act, instructions have been given to field offices to preserve all ADEA records.

From the data compiled by Office of Program Operations and OGC, mailing labels were generated and 5,220 notices were mailed from EEOC headquarters between May 23 and May 27. This mailing included 980 charges processed by FEPAs. To ensure that as many charging parties as possible were located and identified, each field office (except the new Savannah and Hawaii offices) was sent a printout of the charges headquarters had identified, with instructions to cross-check the list with their local records and mail notices to any additional charging parties before June 6. Field offices mailed an additional 2,326 notices (see Attachment H).

On the advice of the Office of Legal Counsel, the directors of 43 FEPAs that have contractual relationships with EEOC to complete age cases were provided with specific instructions on notifying charging parties covered by ADCAA, a copy of the fact sheet and a copy of the letter to send to charging parties. These agencies identified the affected charging parties and mailed notices directly to them. As of June 22, we had received lists of notices mailed from 23 of the 43 FEPAs. Those lists will be counted and analyzed along with those we receive from the additional 20 FEPAs. We do not yet know the total number of notices mailed by FEPAs.

The process of identifying charging parties was difficult, and there inevitably was some duplication in mailing from headquarters, field and FEPA lists. Some 1,472 notices were mailed from Headquarters to charging parties who filed charges with EEOC over 300 days after the date of the alleged violation of ADEA. In fact, many of the 1,472 were filed after the two-year statute of limitations had expired. Some charging parties did not indicate a date of alleged violation, but these individuals were mailed a notice as well. Even though a charging party who files an untimely charge with EEOC may not file a private lawsuit, EEOC can investigate the charge to determine whether discrimination exists and secure relief for the charging party in some cases.

To further notify claimants pursuant to ADCAA, EEOC issued approximately 500 news releases to the Washington bureaus of newspapers, radio and television stations across the country, to specialized media with senior audiences and to senior citizen organizations nationwide (see Attachment I).

The news release advised that if a person believes his or her charge falls within the parameters of ADCAA and the person has not received a notice in the mail, the EEOC district office processing their charge could be contacted for necessary guidance. The release also provided EEOC's toll-free telephone number for further information.

The Office of Program Operations has sent guidance to the field offices on how to process charges affected by ADCAA. Field offices have been instructed to review ADEA charges which are subject to the Claims Act to determine the extent of additional investigative and enforcement activity needed. Charges closed solely on the basis of the statute of limitations having expired will be reviewed for additional investigation and possible enforcement. Charges closed erroneously will be fully investigated. Attempts will be made to reconstruct any charge files that may have been destroyed. Charges closed before the Determinations Review procedures became effective will be reviewed for additional investigation and possible enforcement. Charges closed appropriately require no further action. Field offices have been instructed to complete their review of affected charges by the end of December to allow time for completing investigations and developing cases for litigation.

An analysis of all charges that generated a notice, including field office and FEPA mailings, is not yet completed. Additionally, field offices have been instructed to keep clear and accurate records on all inquiries by charging parties and each charge that has been reopened, reinvestigated or reconsidered. All of this information will be provided to the Congress in the statutorily-required reports.

Staffing Levels and Transferring Charges

Administrative positions in each of the 23 EEOC district offices are relatively standard: each district office has a director, personnel specialist, administrative officer and one or two enforcement managers. Most district offices have a deputy director and all have a regional attorney. Clerical positions generally are assigned on a 4 to 1 ratio of professionals to clericals. Legal unit staff are assigned to field offices by the General Counsel, with staffing decisions primarily based on the office workload.

To set base staffing for field offices, the Office of Program Operations uses 76 charge resolutions as the annual anticipated level of production for each investigator. The current and anticipated workload is divided by the anticipated level of production to figure the number of investigators to be assigned to each office. The Office of Program Operations looks at the workload, staffing and production levels of each office on a quarterly basis, and determines where vacant positions can be moved to create the best balance of staffing to workload.

In fiscal 1987, 94 new investigative positions were allocated to the Office of Program Operations. Offices with the heaviest workloads, like Dallas, Los Angeles and St. Louis, got the largest number of new positions. Other offices got a few and some offices didn't get any. Again, the decisions were based on workload, staffing and productivity.

There is no prescribed EEOC policy regarding the transfer of charges between field offices. The Office of Program Operations is charged with responsibility for determining and implementing steps which ensure successful investigations and enforcement of the laws against employment discrimination. Transfers of charges were determined necessary to respond to operational exigencies in identified district offices.

Some historical information is helpful to place the decision to transfer charges in perspective. Since 1984, the Commission has had the largest volume of charge receipts to process in the agency's history. However EEOC's funding during that time has prevented staffing levels from keeping pace with the workload.

Before deciding to transfer cases between districts, the advantages and disadvantages of several alternatives were fully explored. One alternative was to take no action. This would have allowed offices with large workload-to-staff ratios to remain unchecked while allowing the workload of offices with smaller inventories to shrink further, raising the prospect of a reduction in force (RIF).

A second alternative was to move staff to accommodate the workload through reduction in force procedures. This alternative would be extremely costly and could not be effected to the degree necessary due to budgetary constraints. It also would be disruptive to staff, would necessitate protracted union negotiations, and would result in grievances, complaints, morale problems and substantial administrative work.

The third alternative was reallocation of slots through attrition. While currently being utilized to a limited degree and an excellent long term measure, the alternative did not offer a rapid enough solution. This procedure is further hampered by the slow attrition rate in those offices which would lose staff.

Another area considered before deciding to transfer charges was the low productivity in some offices caused in part by managerial performance problems. We recognized that the performance problems required immediate attention and are taking appropriate corrective action in this regard. However, because performance was not the sole reason for the buildup of charge inventory, other steps were necessary to confront the inventory situation overall and to more closely align workload to staffing levels.

Office of Program Operations officials concluded that the appropriate action was the transfer of charges, which previously had been employed as a workload balancing technique on a very limited basis. In addition, district directors had historically moved cases among offices within their districts to balance the workload.

Transfer of charges offered a variety of advantages over the alternatives previously discussed. Specifically:

- more expeditious and higher quality service to the public;
- reduction of overall agency inventory by moving charges where staff was available for processing;
- quick adjustment of workload and faster resolution of charges; and
- some relief to the level of inventory pending in some offices.

It should be noted that before effectuating any transfers of cases, a memorandum of understanding was negotiated with the union representing EEOC employees concerning procedures for implementation. (See Attachment C.)

Rules Governing Early Retirement Incentives

The Commission has always acted to prohibit early retirement programs that discriminate against older workers, whether the discrimination is based upon the availability of the incentive or the issue of involuntary discharge.

In light of recent amendments to the ADEA and several cases dealing with early retirement, questions have arisen regarding the legality of early retirement plans in general and of specific plans. Since the use of early retirement plans has expanded greatly in recent years, the Commission deems it appropriate to consider the issuance of regulatory guidance in the area.

However, a project of this magnitude should not be undertaken without sufficient study. The Commission's Office of Legal Counsel is preparing an advance notice of proposed rulemaking (ANPRM) to seek public comment in several specific areas, to enable the Commission to determine whether rulemaking is indeed appropriate and to channel its regulatory efforts effectively. Once an ANPRM is published and comments are received from the public, the Commission will consider holding a public hearing on early retirement. After the ANPRM and hearing, the Commission will be able to determine what type of regulatory action, if any, is appropriate.

I will be pleased to answer any questions you may have.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Office of
General Counsel

ATTACHMENT A

March 30, 1988

MEMORANDUM

TO : Regional Attorneys

FROM : Charles A. Shanor CAS
General Counsel

RE : Proposed Senate Bill S.2117

S.2117 (copy attached) passed Congress yesterday and is awaiting the President's signature. Because of possible interpretive questions concerning Sec. 3, you MUST CONSULT WITH PAUL BRENNER IN HEADQUARTERS (FTS 634-6595) BEFORE FILING ANY FURTHER ADEA ACTIONS, EVEN ONES ALREADY AUTHORIZED BY THE COMMISSION.

Additionally, please provide me a list of all your cases now in litigation in which there is any doubt concerning whether the 2 year (without tolling) ADEA statute of limitations has run. This list should be panafaxed to me no later than close of business tomorrow, March 30, 31, 1988.

Attachment

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Office of
General Counsel

ATTACHMENT B

April 7, 1988

MEMORANDUM

To: All Regional Attorneys

Thru: Charles A. Shanor CAS
General Counsel

From: Philip B. Sklover
Associate General Counsel

Subject: Regional Attorneys' Conference Call

This is to confirm that the Regional Attorneys' conference call is scheduled for April 12 at 12:00 noon (E.S.T.).

Please be in your office 15 minutes before the call so that all the inter-connections can be made.

In addition to any point which you may wish to raise during the conference call, we will address the following issues:

1. PM productivity during the second quarter and the fiscal year;

2. The Age Discrimination Claims Assistance Act of 1988;

3. Use of district office credit card to facilitate small procurements;

4. Visit by Trial Service Liaison attorneys to Legal Units.

5. FOIA Revisited.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Office of
General Counsel

ATTACHMENT C

MAY 11 1988

MEMORANDUM

TO : All Headquarters Office of General Counsel Attorneys and Regional Attorneys

FROM : Charles A. Shanor
General Counsel CAS

SUBJECT : Applicability of the Age Discrimination Claims Assistance Act to Dismissed Cases and Cases Arising From Directed Investigations.

A number of questions have arisen concerning the Age Discrimination Claims Assistance Act's (ADCAA's) application to claims dismissed in court as untimely filed and to claims arising from EEOC directed investigations.[1] As more fully explained in this memorandum, it is my position that where the criteria of the ADCAA are satisfied, the ADCAA revives cases which have been, or which might be, dismissed on statute of limitations grounds. It is also my position that the ADCAA does not normally permit EEOC to sue upon claims uncovered in the course of a directed investigation which grew stale during the administrative phase, but as to which no charge was filed.

You should submit a presentation memorandum proposing to refile a complaint when a claim satisfying the ADCAA's criteria is dismissed on statute of limitations grounds. Absent special circumstances, however, you should not seek to litigate stale claims arising from directed investigations.

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[1] The Age Discrimination Claims Assistance Act (ADCAA), Pub. L. No. 100-283, 102 Stat. 78, was signed by President Reagan on April 7, 1988. The ADCAA allows an aggrieved individual, or the Equal Employment Opportunity Commission, until September 28, 1989 (540 days after the date of enactment) to file a lawsuit based upon a charge if: (1) the charge was filed with the EEOC after December 31, 1983 [ADCAA, §3(1)]; (2) the ADEA's two or three year statute of limitations applicable to the claim expired prior to April 7, 1988 [§3(3)]; (3) suit was not brought by EEOC or the charging party before the running of the statute of limitations [§3(4)]; and (4) EEOC did not, within the limitations period, successfully conciliate the charge or notify the charging party of the disposition of the charge and of his right to bring a civil action [§3( )].

ADCAA's Effect On Dismissed Claims

It is my conclusion that the ADCAA revives claims dismissed from court so long as final judgment was on statute of limitations grounds and the timeliness problems were due to Commission inaction.[2] I base this conclusion on the plain language and legislative history of the ADCAA. As more fully discussed below, it is my opinion that there are no Constitutional or res judicata impediments to this interpretation.

The Act is most naturally read to extend to claims already dismissed. In relevant part, it requires that "a civil action on such claim was not brought by the Commission or [the aggrieved] person before the running of the statute of limitations." By definition, a claim that was dismissed as untimely was not brought before the running of the statute of limitations. The statutory language makes no distinction between claims never brought and claims brought but not in time.

This interpretation is supported by the legislative history of the Act. The obvious motivation for the ADCAA was to restore the complainants' right to have the substance of their claims heard. See, e.g., 134 Cong. Rec. S1747 (daily ed. March 2, 1988)(statement of Sen. Melcher)("Because of EEOC's failure, an undetermined number of working men and women have lost their right to have their day in court."). As Senator Melcher pointed out, "While we have no way of knowing the merit of the claims this bill will affect, each individual should have an opportunity to try to prove his or her case." Id. The debate is replete with such statements, and they are uncontradicted.[3]

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[2] This includes claims that were in litigation as class claims. My position is that the ADCAA permits a suit to go forward as if the statute of limitations had never run, so that any class claims are revived, along with the claim of the individual(s) who filed the action.

[3] A defendant to a revived suit could be expected to argue that Congress' intent actually was to restore the right to sue for some 900+ claimants whose cases were highly publicized, and which never even got to court. This more limited view of the Act is somewhat supported by the statements of various members of Congress indicating outrage at the well-publicized group of cases that attracted Congress' attention. See, e.g., id. at H1252 (daily ed. March 29, 1988)(statement of Rep. Martinez); at H1254 (statement of Rep. Clay).

This contention is unpersuasive. The approximately 900 never-filed cases that spurred the Act interested Congress in the

(continued...)

Cases in which an untimely claim was filed are often quite compelling. They frequently raised colorable claims of willfulness which lead EEOC to try to litigate them even though the normal two year limitations period had run. If one accepts the premise that the most willful violators are those least deserving of the benefit of the statute of limitations, then the claims that were filed and dismissed should, arguably, be the strongest ones for application of the Act.

Since it appears that Congress intended to revive such claims, respondents may argue that Congress cannot constitutionally revive claims that have passed into judgment. I perceive no serious constitutional problems, however. Congress can enact legislation that lengthens a statute of limitations and may retroactively revive claims as to which the former limitations period expired. International Union of Electrical Workers v. Robbins & Myers, Inc., 429 U.S. 229, 243-44, 97 S.Ct. 441, 450-51 (1976) (retroactive application of 180-day period within which to file Title VII charges after change from 90 days is not per se unconstitutional). While Congress cannot enact legislation that, by its retrospective application, takes "'life, liberty, or property without due process of law . . . ,'" 429 U.S. at 243, (quoting Chase Securities Corp. v. Donaldson, 325 U.S. 304, 315 (1944)), in Chase Securities Corp., the Supreme Court reaffirmed Campbell v. Holt, 115 U.S. 620, 6 S.Ct. 209 (1885), which held that a state legislature could extend a statute of limitations so as to retroactively restore to the plaintiff his remedy, and divest the defendant of the statutory bar, so long as the lapse of time had not invested a party with title to real or personal property. Read together, Chase Securities Corp. and Campbell make fairly clear that a defendant has no constitutionally-protected right to a judgment which merely determined that the statute of limitations had run on plaintiff's cause of action, as opposed to a judgment that defined substantive rights and liabilities.[4]

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[3](...continued)
broader problem of EEOC processing delay preventing the filing of timely claims. For purposes of the Act, it makes no difference whether, after the statute of limitations had run, a futile claim was filed.

[4] For example, Congress could not set aside a monetary judgment in favor of plaintiff by passing a law declaring that a bridge formerly adjudged to be an obstruction was a lawful structure. See Pennsylvania v. The Wheeling and Belmont Bridge Co., 59 U.S. (18 How.) 421, 430-31, 15 L. Ed. 435, 436-37 (1855). Nor could a state pass a repealing statute which operated to void
(continued...)

Thus, even if compelling arguments exist that Congress may not retroactively create new substantive liabilities by authorizing a cause of action for acts that were not illegal or tortious when committed, such arguments are inapposite to these facts. Here, where the cause of action did, unquestionably, exist prior to the ADCAA, no new liability is being created. Since Congress has the power to extend the statute of limitations even when it already has run, it may be extended when it has run and there is a judgment saying that it has run.[5]

A remaining question is whether relitigation of dismissed cases is barred by the doctrine of res judicata. That doctrine is a flexible one that can be "qualified or rejected" when its "application would contravene an overriding public policy or result in manifest injustice." Harrington v. Vandalia-Butler Bd. of Education, 649 F.2d 434, 438-39 (6th Cir. 1981). See Mercoid Corp. v. Mid-Continent Co., 320 U.S. 661, 669-70 (1943) (public policy against patent infringement outweighs policies favoring res judicata); but see Moitie, 452 U.S. at 398-402 (rejecting "public policy" rationale offered by court of appeals for departing from res judicata.) If ever public policy justifies departing from res judicata, it is when Congress, whose job it is to define public policy, decides that the need to have a class of cases heard outweighs the need for finality of judgments. It is one thing for the Supreme Court to say that "[t]his Court has long recognized that '[p]ublic policy dictates that there be an end of litigation,'" 452 U.S. at 401, quoting Baldwin v. Traveling Men's Ass'n, 283 U.S. 522, 525 (1931). It is quite another to say that that public policy choice may not be overridden by Congress in pursuit of a different goal.[6]

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[4](...continued)
a judgment, rendered pursuant to the repealed statute, that authorized a plaintiff to pay state taxes by redeeming the coupons on state bonds. See McCullough v. Virginia, 172 U.S. 102, 123-24, 43 L. Ed. 382, 390 (1898).

[5] To hold that Congress can never enact statutes that allow court judgments to be reopened would constitutionalize the doctrine of res judicata. While res judicata surely embodies an important and fundamental public policy favoring the finality of judgments, see Federated Dep't Stores, Inc. v. Moitie, 452 U.S. 394, 398-402 (1980), it has never been thought to be constitutionally required.

[6] Establishing that Congress intended to allow dismissed cases to be refiled under the ADCAA is therefore critical. There
(continued...)

Here, the "manifest injustice" standard also seems to be met. The only difference between claims dismissed and claims never brought to court is that, as to the first group, EEOC tried (and failed) to avoid the statute of limitations barrier which Congress has now removed. The complainants should no more be penalized because EEOC tried to bring their claims but was held to be time-barred than they should be because EEOC caused those claims to be time-barred in the first place.

Finally, there is a line of cases sanctioning an exception to res judicata when a change in law "involve[s] momentous changes in important, fundamental constitutional rights." Precision Air Parts, 736 F.2d at 1504. See, e.g., Christian v. Jemison, 303 F.2d 52, 54 (5th Cir. 1962)(refusing to give preclusive effect to a judgment based on separate-but-equal doctrine rendered three months before Brown). Although the change brought by the Act does not rise to that level, the exception nevertheless can be used to show that res judicata is not an absolute, and that a defendant has no constitutional right to the validity of a judgment under all conditions.

In summary, the plain language of the statute and the legislative history make clear that Congress intended that all claims for which timely cases were not brought (and which meet the Act's other criteria) -- regardless of whether untimely suit was filed -- be given a renewed hearing. The effect of the prior judgment, while not insignificant, does not rise to the level of a constitutional question, but instead simply is a question of res judicata principles. There are, in fact,

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[6](...continued)
is a "general rule . . . that changes in the law after a final judgment do not prevent the application of res judicata . . . ." Precision Air Parts, Inc. v. Avco Corp., 736 F.2d 1499, 1503 (11th Cir. 1984). There, the plaintiffs unsuccessfully attempted to avoid an earlier adverse judgment (rendered on statute of limitations grounds) by arguing that the Alabama Supreme Court had in the interim lengthened the applicable limitations period. Precision Air Parts, and the cases it cites, are distinguishable, however, on the basis that there was no indication that the changes in the law on which the plaintiffs sought to rely were intended to apply retroactively to revive dismissed claims. Those cases involved attempts by plaintiffs to take advantage of a general change in the law and apply it to defeat res judicata; the parallel here would be if Congress had simply amended the ADEA to lengthen its statutes of limitations as a general rule while giving no indication that it meant to have the longer period apply to cases that already were untimely under the shorter period. The ADCAA, obviously, is quite different than that.

recognize dexceptions to res judicata. These exceptions demonstrate that the public policy in favor of finality of judgments is not absolute, and may be overriden by clear legislative indication of a contrary public policy choice. Congress made such a choice in enacting the ADCAA.

ADCAA's Applicability to Directed Investigations

The ADCAA appears not to extend the statute of limitations for claims resulting exclusively from Commission Directed Investigations.

The structure of the statute indicates that Congress meant to restore the right to sue in cases where a charge of discrimination had been brought to the Commission. In its §2 findings, for example, Congress focused upon the "many persons who filed [ADEA] charges with the Commission [who] lost the right to bring private civil actions . . . " due to agency inaction. Moreover, §3 of the Act plainly contemplates the procedures followed when the Commission acts on an individual's charge. In setting forth the criteria for cases to which the 540-day extension applies, Congress specified that "a charge was timely filed . . . with the Commission" and "the Commission did not . . . notify such [aggrieved] person, in writing, of the disposition of such charge" (emphasis added). Similarly, §4 provides that EEOC "shall provide the notice specified in [the Act] to each person who has filed a charge to which section 3 applies" (emphasis added). The statute thus contemplates the involvement of an aggrieved individual bringing a charge to the Commission.

There is no specific discussion of directed investigations in the legislative history. Rather, Congress was concerned about the failure of EEOC timely to process claims brought to it by persons alleging discrimination. Senator Melcher said that the Act "waives the ADEA's statutes of limitations for 18 months for those who have already filed a charge with the Commission." 134 Cong. Rec. S1747 (daily ed. March 2, 1988) (emphasis added). Senator Metzenbaum spoke of "older Americans [who] went to the EEOC seeking vindication of their legal rights." Id. at S1748. He continued, "The bill provides additional time to pursue claims for anyone who filed a timely charge with the EEOC on or after January 1, 1984 . . . ." Id.[7] There simply is no indication

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[7] In the House, the intent behind the Act was equally clear. In a colloquy between Representative Weiss and Representative Martinez, the following exchange took place:

Mr. Weiss: What is the purpose of this legislation?

(continued...)

that Congress was addressing any problem other than the failure to process the timely charges of individual aggrieved parties.

It might be argued that there is no operational difference between a directed investigation and a charge brought to the Commission, and that therefore directed investigations should be treated the same as charge-initiated investigations under the ADCAA. There is, however, at least one major statutory difference between a directed investigation and a charge.[8] More fundamentally, even if the Commission did treat the two sorts of cases as if they were identical, Congress has now distinguished between them in the ADCAA. I therefore conclude that Congress has extended

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[7](...continued)

Mr. Martinez: This bill would provide legal recourse to certain individuals who filed timely charges under the . . . [ADEA] . . . .

Mr. Weiss: What exactly does this bill do?

Mr. Martinez: The bill establishes an 18-month extension during which individuals who have filed timely charges with the EEOC can proceed with their cases in court.

Id. at H1252 (daily ed. March 29, 1988) (emphasis added).

[8] Under §7(d) of the ADEA, EEOC is obligated upon receiving a charge to "promptly notify all persons named in such charge as prospective defendants in the action and shall promptly seek to eliminate any alleged unlawful practice by informal methods of conciliation, conference and persuasion." No such obligation exists for a directed investigation, although the Commission must, of course, conciliate under §7(b) prior to filing any ADEA suit. This requirement -- which applies whatever the genesis of the anticipated suit -- is independent of the §7(d) obligation promptly to conciliate upon receiving a charge from an aggrieved individual, an obligation having no parallel in a claim not arising from a charge. Thus, it is incorrect to say that no difference exists between the two.

the limitations period only as to cases in which individuals filed charges with EEOC.[9]

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[9] This does not mean that no claims filed pursuant to a directed investigation are protected by the Act. First, we are litigating at least one case where the Commission's directed investigation was initiated by an individual bringing a charge to the Commission. Notwithstanding the development of the case through a Commission directed investigation, such a charge would, in my view, trigger the applicability of the Act. See n. 2, supra. If you have a case in which you believe such a factor should lead to ADCAA applicability, please seek further guidance from headquarters. Second, even in the absence of a charge, private litigants may argue that the ADCAA should revive their time-barred claims if they were specifically identified in the directed investigation and, relying upon EEOC to process their claims, they relinquished the opportunity to file charges. I do not express any opinion on this subject at this time.

ATTACHMENT D

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MAY 3 1988

MEMORANDUM

TO : James H. Troy, Director
Office of Program Operations

FROM : Richard D. Komer
Legal Counsel

SUBJECT: Analysis of Age Discrimination Claims
Assistance Act of 1988

I. Introduction

The Age Discrimination Claims Assistance Act of 1988 (ADCAA), Public Law No. 100-283, 102 Stat. 78, was signed by President Reagan on April 7, 1988. ADCAA affects ADEA charges meeting certain specified criteria, for which the statute of limitations expired prior to 4-7-88, by allowing an aggrieved individual or the Commission until September 28, 1989 (540 days after the date of enactment) to file a lawsuit based on the unlawful practices alleged in the charge. ADCAA requires the Commission to notify those charging parties whose charges are affected of their rights under the ADEA and of their right to bring a civil suit on the claim set forth in the charge on or before September 28, 1989. ADCAA also requires the Commission to provide to Congress periodic written compliance reports.

II. A General Analysis of ADCAA

Section 2 of ADCAA sets forth Congress' finding that the Commission has failed to process an undetermined number of ADEA charges before the running of the statute of limitations, and that many persons who filed such charges have lost the right to bring private civil actions with respect to the unlawful practices alleged in such charges.

Section 3 of ADCAA extends the statute of limitations for an additional 540-day period, ending September 28, 1989, for claims of unlawful practices set forth in ADEA charges meeting the following conditions:

1) The charge was timely filed with the Commission after 12-31-83;

2) The Commission within the applicable period did not either a) eliminate the alleged unlawful practice through conciliation, or

b) notify the person of the disposition of such charge and of the right to bring a civil suit on the claim;

3) the applicable statute of limitations ran before April 7, 1988; and

4) a civil action on the claim was not brought by the Commission or such person before the statute of limitations ran.

Section 3 provides that a civil suit based on a claim covered by a charge meeting all of these criteria may be brought by either the Commission or an aggrieved person on or before September 28, 1989.

Section 4 of ADCAA requires the Commission to give written notice to each individual who filed a charge that meets the criteria spelled out in Section 3 no later than June 6, 1988 (60 days after the date of enactment). This notice must include information about the rights and benefits to which such person is entitled under ADEA and about the right to file a civil suit on or before 9-28-89. Since it is often impossible to determine with certainty whether the 2 year or 3 year statute of limitations applies, the Commission should provide the notice to charging parties in all cases where the 2 year statute of limitations has expired. A sample notice is set forth in Section IV of this memorandum.

Section 5 of ADCAA requires the Commission to submit a written report to Congress for each 180-day period in the 540-day period beginning on April 7, 1988, containing the following information:

1) The number of charging parties who have claims to which Section 3 applies (that is, the number of charges meeting the criteria spelled out in Section 3) and the dates the charges were filed with the Commission.

2) The number of persons to whom the notice required by Section 4 was sent and on what dates.

3) With respect to alleged unlawful practices on which claims affected by Section 3 are based (that is, the alleged violations set forth in the charges meeting the criteria in Section 3), the number of these alleged violations the Commission has attempted to eliminate through conciliation in the 180-day period for which the report is submitted.

4) The number of alleged violations referred to in paragraph 3 that were actually eliminated (that is, successfully conciliated).

5) The number of civil actions filed by the Commission on behalf of persons to whom notice was sent under Section 4 of ADCAA.

While the specific language of ADCAA requires only that those persons whose charges are affected be so notified, the legislative history indicates that some members of Congress expect these charges to be processed in the usual fashion. Representative Martinez' comments are illustrative:

> This bill does not change the Commission's obligations under the ADEA. For example, section 7 of the ADEA requires that the Commission investigate a charge and attempt to eliminate any alleged unlawful practice by informal methods of conciliation, conference, and persuasion. Section 4 of this bill creates an additional obligation of notice for these charges affected, and section 5 requires that the Commission provide periodic reports to Congress regarding charges affected by this bill.

See 134 Cong. Rec. H 1253 (March 29, 1988).

The reporting requirements set forth in Section 5 further demonstrate that Congress is interested not only in having the Commission notify affected persons, but also in the number of affected ADEA charges the Commission will attempt to conciliate, and successfully conciliate, or alternatively, litigate.

While Office of Legal Counsel does not interpret ADCAA to mandate the investigation and conciliation of every affected charge, the Commission, in addition to providing the required notification, may wish to process certain ADCAA charges where it deems such action to be appropriate.[1]

III. Questions and Issues That May Arise Under ADCAA

1) One question which has arisen is what does the phrase failed to "notify ... of the disposition of [the] charge" (Section 3) mean. Considering that ADCAA's statutory language and legislative history do not specifically define the phrase, it is felt that a common sense definition should be adopted.

A charging party would be considered to have been notified of the disposition of his charge where he was given written notification that his charge had been successfully resolved, or that the Commission would take no further action (e.g., an administrative dismissal, an unappealed no cause finding, a decision not to litigate), or that the statute of limitations would expire shortly, and that the EEOC's processing of the charge was unlikely to be completed before the expiration of the statute of limitations, and accordingly that the charging party should consider filing a private suit to preserve his rights.[2] It is felt that the form letter developed in February 1988 to inform charging parties that the investigation of their charge is not yet complete and that the statute of limitations for private suit rights will expire in 60 days does not constitute an adequate notice of disposition within the meaning of ADCAA, since it does not make explicit the real probability that the EEOC will be unable to take the necessary action in time and that the charging party must file a private suit to preserve his rights. Accordingly, the Office of Legal Counsel takes the position that charging parties who received this notice and were not subsequently informed of the disposition of their charges prior to the running of the statute of limitations are covered by ADCAA.

Ultimately, the issue of what "notify... of the disposition" means will be decided by the courts. The Office of Legal Counsel believes, however, that the definition of "disposition" set forth above will best effectuate the broad remedial intent of ADCAA.

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[1] For example, if a charge was never investigated, or a charge was investigated and a cause determination was issued but conciliation was not attempted, additional processing would seem appropriate. However, if a charge was fully investigated and found to be meritless, but the determination was issued after the statute of limitations expired, or the charge was otherwise dismissed for administrative reasons (e.g., an uncooperative charging party) after the statute of limitations ran, there would appear to be no reason to reopen the charge for additional processing. Decisions regarding whether additional administrative processing is appropriate would be made on a case-by-case basis.

[2] Office of Legal Counsel would be glad to assist in the development of such a notice for prospective application.

2) Another problematic situation which may arise would involve claims that arguably are willful violations of the ADEA. Assume that the two year statute of limitations on such claims expired before the enactment of ADCAA, but the three year period has not yet run. Further assume that the government does not file suit until after the three year period has expired. In this scenario it is possible that the respondent would stipulate to a willful violation in order to argue that ADCAA is inapplicable (because the applicable 3 year statute of limitations ran after 4-7-88) and that all actions are forever barred. The Office of General Counsel (OGC) is evidently prepared to argue that even if a lawsuit in such a case is not filed until after the three year limitations period, ADCAA will apply by reviving the non-willful component of the concededly willful offense. We concur fully with the approach that charging parties should be given Section 4 notice in every case where the two year statute of limitations has expired and the other criteria for ADCAA coverage are met. Where it is possible, however, to conclude processing or commence suit before the expiration of the three year statute of limitations, such should be the Commission's foremost objective. To do otherwise leaves open the possibility, albeit a remote one, that a respondent could avoid liability by admitting willfulness as explained above.[3]

3) Questions have arisen as to whether ADEA charges filed with or referred to state FEP agencies for processing are covered by ADCAA. Neither the language nor the legislative history of ADCAA make specific reference to ADEA charges processed by state FEP agencies. However, considering that such FEP charges are docketed with the Commission and given an EEOC charge number (primarily for purposes of ensuring that the prerequisites for filing a private suit are satisfied), it is felt that such charges would be deemed to be EEOC charges and thus covered by ADCAA, if the specified ADCAA criteria are met, as discussed above. Accordingly, these affected parties should receive notice pursuant to Section 4.

As is the usual case under ADEA, the Commission will exercise its discretion, given its limited resources and other competing demands, in deciding whether additional administrative processing of such charges is within the public interest.

4) Questions may also arise as to whether a charge was timely filed for purposes of Section 3 of ADCAA. For example, if a charge was not timely, but the Commission accepted it because it felt equitable tolling was applicable even though no court had ever sustained the Commission's view, should the charge be considered timely for purposes of Section 3? In this situation, if it is felt that a reasonable argument can be made that the charge was timely filed and if the other ADCAA requirements are satisfied, ADCAA should be considered to apply and the person notified. This approach would get aggrieved persons into court where a binding assessment of any equitable tolling arguments can be made.

5) It should be noted that where the Commission files suit on behalf of aggrieved individuals covered by ADCAA on or before June 6, 1988 (the date by which the Commission is to provide Section 4 notice to affected individuals), it would be appropriate to send a substitute notice apprising the charging party of the Commission's action since an individual's right to file suit is terminated when the Commission files suit.

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[3] A question has arisen recently concerning whether Section 7(b) conciliation efforts toll the statute of limitations for private parties. For purposes of applying ADCAA, it should be assumed that tolling does not apply, that is, charges are actionable if the 2 year statute of limitations expired before 4-7-88, and the other criteria for ADCAA coverage are met.

6) While it is unclear whether ADCAA applies to the claims of similarly situated non-charging parties, OLC believes that ADCAA will also revive the rights of such persons. This view is consistent with the Commission's regulations providing that "no civil suit may be commenced by an individual until 60 days after a charge has been filed on the subject matter of the suit." 29 C.F.R. § 1626.7(b). The preamble to these regulations, published in the Federal Register on January 3, 1983, explicitly states that "an aggrieved person may bring suit so long as the matter complained of was within the scope of the previously filed charge, regardless of who filed it." 48 F.R. 139 (1-3-83). Accordingly, OLC believes that other similarly situated parties may bring suit on claims which are within the scope of any charge affected by ADCAA. Similarly situated non-charging parties would also be covered if the EEOC brought a "class" suit, based on an individual charge, or may choose to opt-into a pending private suit brought by a charging party.

ADCAA does not require, however, that Section 4 notice be provided to such an amorphous group. Section 4 of ADCAA only requires that notice be provided to actual charging parties.

7) Another problem which may arise is when Section 4 notices are returned to sender because the charging party has moved and there is no forwarding address or it has expired. In this circumstance, the Commission should follow its usual procedures regarding attempts to locate charging parties. See Section 4.4(c) of Volume I of Compliance Manual.

ADCAA is a very recent statute which was drafted and passed by Congress in an accelerated fashion and which mandates rapid action by the Commission. OLC recognizes that additional questions and issues may arise as the Commission attempts to fully comply with the requirements imposed by ADCAA. OLC will issue supplemental guidance addressing any additional issues that arise, as necessary.

IV. PROPOSED SAMPLE NOTICE

Dear ( )

On April 7, 1988, President Reagan signed into law the Age Discrimination Claims Assistance Act of 1988 (ADCAA), which covers certain expired claims filed under the Age Discrimination in Employment Act of 1967. The new law extends the statute of limitations for a period of 540 days, allowing individuals or the Commission to file a civil action on those claims covered by the ADCAA on or before September 28, 1989. A review of our case files indicates that your charge (#) filed on (_____) with the EEOC, may qualify for the extended filing period afforded under the terms of the ADCAA.

RIGHTS AND BENEFITS UNDER THE ADEA

The Age Discrimination in Employment Act of 1967 (ADEA) is designed to promote employment of individuals age 40 or older on the basis of their ability. The ADEA protects members of the above-mentioned age group from arbitrary age discrimination in hiring, discharge, pay, promotions, fringe benefits and other aspects of employment.

CURRENT DISPOSITION OF CLAIM

You have alleged in your charge of age discrimination that your employer:

a) failed to promote you;
b) discharged you;
c) denied certain benefits to you; or
d) other allegations on account of your age.

A) The Commission has attempted to eliminate such practice(s) through conciliation efforts with your (former) employer, but such efforts have been unsuccessful.

B) The Commission is in the process of attempting to eliminate such practices through conciliation efforts with your (former) employer. The Commission will notify you of the results of the attempted conciliation.

C) The Commission will investigate and, if appropriate, attempt to conciliate the matter with your (former) employer in the near future. The Commission will notify you of the results of its efforts. Under the provisions of the ADCAA you may file a private ADEA suit, provided such a lawsuit is filed ON OR BEFORE SEPTEMBER 28, 1989. Please note that your right to file a private action is not dependent upon the EEOC investigation.

(D) The Commission, through the process of conciliation, has been successful in eliminating the discriminatory practice (or practices alleged). Under the terms of the conciliation agreement . . .

NOTICE OF PRIVATE RIGHT OF ACTION

(A) After a careful review of your charge, the Commission has decided not to further pursue the matter. Under the provisions of the ADCAA, you may file a private suit, provided such a lawsuit is filed ON OR BEFORE SEPTEMBER 28, 1989.

(B) After a careful review of the matter, the Commission has decided to litigate the matter on your behalf. It is the intent of the Commission to file such a lawsuit before September 28, 1989. Under the provisions of the ADCAA you may choose to file a private ADEA suit, provided such a lawsuit is filed ON OR BEFORE SEPTEMBER 28, 1989. It should be noted, however, that your right to file a private ADEA lawsuit is extinguished once the EEOC has, in fact, filed an action on your behalf.

(C) The Commission is still considering whether to litigate the matter on your behalf. The Commission is unable to insure that it will, in fact, litigate the matter on your behalf, or, when such a determination will be made. Under the provisions of the ADCAA you may file a private ADEA suit, provided such a lawsuit is filed ON OR BEFORE SEPTEMBER 28, 1989. If the Commission does not notify you of a final decision by August 1, 1989, you should consider filing a private action to protect your rights under your claim. For the time period of August 1, 1989 through September 28, 1989, we recommend that you contact the Commission on a weekly basis with respect to the government's determination on litigation.

Should you have any questions regarding any information contained in this letter, do not hesitate to contact the EEOC or its nearest field office.

Sincerely,

ATTACHMENT E

FACT SHEET

AGE DISCRIMINATION CLAIMS ASSISTANCE ACT OF 1988

On April 7, 1988, the President signed into law the Age Discrimination Claims Assistance Act of 1988, Public Law 100-283, 102 Stat. 78 (ADCAA or "Claims Act"). The Claims Act restores the claims of many aggrieved persons under the Age Discrimination in Employment Act (ADEA) which were lost due to delays in EEOC investigations. Generally, under the ADEA an aggrieved person has only two years after the date of the alleged discrimination to file a claim in court, regardless of whether EEOC has completed its action on a charge.

BACKGROUND

The claims Act covers a number of ADEA cases in which the right of persons to sue in court within 2 years of the date of discrimination (without having to prove a willful violation) had passed while EEOC's investigation was still incomplete. The right of all these persons to sue is restored so long as the lawsuit is filed by September 28, 1989. The information below is provided for the consideration of aggrieved persons who may wish to file an ADEA lawsuit within this extended time limit.

AGE DISCRIMINATION CHARGES COVERED BY THE CLAIMS ACT

An ADEA charge is subject to the private suit provisions of the Claims Act if –

- the charge was *timely* filed after 12/31/83 (ordinarily within *either* 180 days of the date of discrimination alleged in the charge *or* 300 days of the date of alleged discrimination in a State which has its own age discrimination law); *and*,
- EEOC or the charging party did not file suit within two years of the alleged discrimination; *and*,
- as of 4/7/88, EEOC did not, within 2 years of the alleged discrimination, *either* –
  - obtain relief for the charging party, *or*
  - notify the charging party in writing of both EEOC's disposition of the charge and of the charging party's right to sue before the 2 years expired.

Thus, an ADEA charge MAY NOT be the basis for a private suit under the Claims Act if –

- the charge was filed before 1/1/84; *or*,
- the charge was filed more than 180 days after the date of discrimination alleged in the charge (300 days in a State with a State age law); *or*
- the only alleged discrimination occurred on or after 4/8/86 (within two years of the Claims Act's effective date of 4/7/88; *or*,
- EEOC or the charging party sued within 2 years of the alleged discrimination; *or*,

  EEOC *either*,
  - closed the charge with relief for the charging party, *or*,
  - within 2 years of the alleged discrimination, gave written notice to the charging party of EEOC's reason for closing the charge and that the charging party had a right to sue under the ADEA before the 2 years expired.

INFORMATION FOR AGGRIEVED PERSONS AND THEIR ATTORNEYS

If you believe you have rights under the Claims Act, you may wish to consult an attorney.

If you consult an attorney, please give the attorney a copy of this Fact Sheet and any other materials which have been provided to you. Every effort has been made to provide you with the necessary information we have on your case. The following information may be important to an attorney considering your case.

• Charges Closed Before October 1, 1986

If EEOC closed your charge before 10/1/86, it is likely that the case file on your charge was destroyed. In that event, the information we are providing you was obtained from our computerized Charge Data System. This information is likely to be all the information we have on your case. If your charge was investigated by a State or Local Agency on EEOC's behalf, that agency may or may not have retained your file.

• Charges Closed on or After October 1, 1986

If EEOC closed your charge after 10/1/86, we may still have the file on your charge. Your attorney may have an opportunity to review your file before deciding whether to recommend that you sue under the Claims Act. If your charge was investigated by a State or Local Agency, that agency will most likely have retained your file.

• Charges Filed Under Both ADEA and Title VII of the Civil Rights Act

If your charge complained of both age discrimination and discrimination based on race, religion, sex or national origin prohibited by Title VII of the Civil Rights Act, the Claims Act does not affect whatever right to sue you may have under Title VII.

• Charges Where a Lawsuit Has Already Been Filed

If you have filed your own lawsuit based on your charge, you should determine whether your case can be expanded under the Claims Act.

If the EEOC has sued on your behalf, we will review your case to see if any claims can be added as a result of the Claims Act. We are giving you this notice now because the Claims Act requires a notice to be given. You do not have to do anything now. We will contact you as the case develops to let you know how the Claims Act affects your case.

• Charges Filed by Third Parties on Behalf of Aggrieved Persons

If you filed your charge on behalf of other persons who may have been discriminated against, they may have a right to sue under the Claims Act. In most cases, we are unable to directly notify these persons because our computer system includes only the name of person who filed the charge. Therefore, we are asking you to provide a copy of this information to each person on whose behalf you filed your charge.

• Prior ADEA Lawsuits Dismissed or Otherwise Not Decided on the Merits of a *Non-willful* Violation

Persons may be entitled to sue under the Claims Act who had previously sued under the ADEA, based on a charge which is now covered by the Claims Act, who *either* (1) did not have the claim heard on its merits because the lawsuit was not filed within the 2 year statute of limitations, or the 3 year statute of limitations for willful violations; *or*, (2) filed the lawsuit after expiration of the 2 year statute of limitations, but before expiration of the 3 year statute of limitations for willful violations, and obtained a court finding of a *non-willful* violation (and therefore no relief).

MAY 1988

ATTACHMENT F

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

May 27, 1988

Dear Claimant:

The purpose of this letter is to inform you that a law was recently passed which restores the rights of many persons, possibly including you, to bring a private lawsuit under the Age Discrimination in Employment Act (ADEA). Please read all the materials we have provided you on this new law. If you have any questions on how the law may apply to your case, you may call EEOC's toll free number 1-800-USA-EEOC, the EEOC District Office that handled your charge, or you may call the state agency which processed your charge.

The law is the Age Discrimination Claims Assistance Act of 1988 (Claims Act). It is explained in more detail in the enclosed FACT SHEET. The Claims Act applies to age discrimination charges which were not investigated within two years of the date of discrimination complained of in the charge.

Upon our review of all the charges currently under investigation by EEOC and the State and Local Fair Employment Practices Agencies which cooperate with us, we identified your charge as one which may be affected by the Claims Act.

If your charge is covered by the Claims Act, as described in the enclosed Fact Sheet, you may now have a right to sue under the ADEA so long as your lawsuit is filed by September 28, 1989. Section 7(c) of the ADEA, 29 U.S.C. § 626(c), provides that any person aggrieved may sue for appropriate relief, including backpay and employment, reinstatement or promotion. If a willful violation is proved, you may recover an amount equal to backpay as liquidated damages. Persons may sue for attorneys' fees and the cost of the action.

The Claims Act also provides for EEOC lawsuits in some cases. If your charge is still being processed by EEOC, we are reviewing the circumstances of your charge to determine how the Claims Act may affect your case. The office which is investigating your charge will notify you when the investigation is complete. HOWEVER, THIS LETTER IS THE OFFICIAL NOTICE WHICH THE CLAIMS ACT REQUIRES TO INFORM YOU THAT YOUR RIGHT TO SUE UNDER THE ADEA MAY BE RESTORED.

EEOC is currently reviewing cases which may be affected by the Claims Act in order to determine whether further EEOC action is warranted. However, if you believe you may want to bring an age discrimination lawsuit now, you may wish to contact EEOC immediately and/or consult with a private attorney as soon as possible. While the Claims Act may permit a lawsuit to be filed as late as September 28, 1989, prompt action can ensure that records or witnesses important to your case will be available.

Sincerely,

James M. Troy, Director
Office of Program Operations

ATTACHMENT G

Methodology used to Review EEOC Charge Data Bases and Extract Addresses for Charging Parties Affected by Age Claims Act

In order to conduct a thorough review of all age charges which might be affected by the new Age Claims Act OPO used three data sources. For each of these we extracted names and addresses of charging parties who should be part of the mailout. We have listed the data sources and the selection criteria used. In addition, the Determinations Review Program, the Office of General Counsel, and the Fair Employment Agencies, to whom EEOC defers age charges, have also mailed notices to affected charging parties in their workload. We have no totals for the field mail out yet.

1. The CSRS DATA SYSTEM

A. Background
The CSRS tracked EEOC charges from 1978 to March 1986.
At this time all open charges were transfered to the appropriate District, Local or Area office and EEOC began the conversion to the new CDS system.

B. Methodology
OPO requested that ISS retrieve the back-up tapes for the historical charge system which were the only ones that included the charging parties' addresses.

C. Selection Criteria
1. All age charges for 1983, 1984, 1985 and 1986
Organized by field office
Including the following records:
-violation date
-closure date
-filing date
-last action date
-last action code

2. From these 68,000 age charges we eliminated the following records:

68,337	total age charges 1983-March 1, 1986
- 18,378	eliminated all action codes which were not closures
- 30,827	filing date before 12/31/83
- 88	violation date greater than 4/7/86
- 2,334	duplicates - previous record has identical name and charge number
- 16,367	less than 731 days between violation date and last action date.

D. Number of Charging Parties identified from this process = 343

2. CDS DATA BASE

A. Background
The CDS charge file system is currently used by field and headquarters staff to track all charge data from April 1986.

B. Methodology
OPO had pre-programmed disc's sent to the field which copied their File Pro records of all age charges meeting the criteria below. These were then converted to an RBase file.

C. Selection Criteria
1. All age charges with violation dates before 04/08/86
2. All age charges with filing dates between 4/1/86 and 4/8/88
Organized by field office
Including the following records:
-violation date
-closure date
-filing date
-last action date
-last action code

3. Through this process 11,141 records were identified and the following records were eliminated.

11,141	Total Records
-6,178	Difference between violation date and status date (closed) was less than 731 days.
-556	Duplicates - check next record has same charge number
-388	Records where address and information was incomplete. These were sent to the field for completion and mailing
-215	Records with X in charge number (hearings charges)
- 21	Records with EEOC as charging party

D. Number of Charging Parties identified from this process =3,783
980 of these were processed by FEP agencies.

3. FIELD REVIEW

A. Background
In addition to data from the CDS and the CSRS files we had a narrow band of charges which were not covered by either of these extracts.

B. Methodology
We asked the field to identify these charges and mail letters directly.

C. Selection Criteria
All age charges with a filing date between 1-1-84 and 4-1-86.
The following were eliminated from these:
-those with violation dates after 4-7-86
-all those where less than 731 days had passed between the violation date and the current status date.

D. Number of Charging Parties identified from this process.
We are currently receiving copies of the field's mailout.

4. OTHER EEOC ORGANIZATIONAL UNITS WHICH MAILED NOTICES TO CHARGING PARTIES

	Total Number Mailed
DETERMINATIONS REVIEW PROGRAM	285
OFFICE OF GENERAL COUNSEL	172
706 AGENCIES	?

ATTACHMENT H

Office Code		CDS & CSRS	Mail From Field
110	Atlanta	57	9
120	Baltimore	154	32
121	Norfolk	8	4
122	Richmond	16	1
123	Washington Area	58	16
130	Birmingham	44	83
131	Jackson	13	0
140	Charlotte	29	28
141	Raleigh	25	0
145	Greensboro	7	0
146	Greenville	32	4
150	Miami	63	28
151	Tampa	32	76
160	New York	726	86
161	Boston	59	0
165	Buffalo	30	25
170	Philadelphia	191	101
171	Newark	60	28
172	Pittsburgh	108	0
210	Chicago	136	159
220	Cleveland	107	68
221	Cincinnati	6	11
230	Detroit	129	80
240	Indianapolis	55	17
241	Louisville	29	3
250	Memphis	55	12
253	Nashville	41	0
251	Little Rock	4	0
260	Milwaukee	7	124
265	Minneapolis	81	238
270	New Orleans	17	6
280	St. Louis	43	34
281	Kansas	162	51
310	Dallas	171	110
311	Oklahoma	90	435
315	El Paso	57	3
320	Denver	55	18
330	Houston	64	0
340	Los Angeles	254	233
345	San Diego	14	2
350	Phoenix	25	42
351	Albuquerque	4	19
360	San Antonio	57	19
370	San Francisco	149	7
375	Fresno	5	68
376	Oakland	-	0
377	San Jose	35	0
380	Seattle	219	46
	Total -	3,783*	2,326

Totals

CDS & CSRS	3,783
Field	2,326
FEP	980
DRP	285
GC	172
706	
	7,546

* as of 6/17/88
Duplicate charges found
on both CDS and CSRS deleted.

eeoc NEWS
U.S. Equal Employment Opportunity Commission

ATTACHMENT I

FOR IMMEDIATE RELEASE

Tuesday, June 7, 1988

CONTACT: Deborah J. Graham
Renee C. Devine
(202) 634-6036
(202) 634-7057 (TDD)

EEOC NOTIFIES COMPLAINANTS ABOUT AGE DISCRIMINATION CLAIMS ASSISTANCE ACT

Washington, D. C. -- The U.S. Equal Employment Opportunity Commission has notified persons who filed employment discrimination charges under the Age Discrimination in Employment Act (ADEA) that they may have the right to bring a lawsuit even though the two-year statute of limitations for such legal action has expired.

The Age Discrimination Claims Assistance Act, signed by President Reagan April 7, restores claims lost due to delays in EEOC investigations. Under the ADEA, an aggrieved person generally has two years after the date of the alleged discrimination to file a lawsuit in court (three years in cases of willful violations), regardless of whether EEOC has completed its action on a charge. The Claims Act extends that period to Sept. 29, 1989, in certain cases.

"EEOC is currently reviewing cases that may be affected by the Claims Act in order to determine if further EEOC action is warranted," said James Troy, EEOC's Director of Program Operations. "We have identified a number of charges that may be covered by the Claims Act, and each person will receive by mail a letter and a fact sheet thoroughly explaining the criteria which must be met for the statute of limitations to be restored. These individuals may contact the EEOC office that handled their charge or consult a private attorney to determine how to proceed with their claims."

Claimants may bring a lawsuit immediately. Lawsuits may be filed by EEOC in some cases. Suits must be filed no later than Sept. 29, 1989.

An ADEA charge is subject to the extension provision of the Claims Act if:

-- the charge was timely filed after Dec. 31, 1983 (within either 180 days of the date of the alleged discrimination or 300 days of the date of the alleged discrimination in states that have an age discrimination law), and

- more -

-- EEOC or the charging party did not file suit within two years of the discrimination, and

-- within two years of the alleged discrimination, EEOC did not either obtain relief for the charging party or notify the charging party, in writing, of both EEOC's disposition of the charge and of the charging party's right to sue, and

-- the two-year statute of limitations expired before April 7, 1988.

Under the Claims Act, a lawsuit cannot be filed if:

-- the charge was filed before Jan. 1, 1984, or the charge was untimely filed, or

-- EEOC or the charging party sued within two years of the alleged discrimination, or

-- EEOC either closed the charge after securing relief for the victim or, prior to the expiration of the two-year statute of limitations, notified the charging party of EEOC's closure of the charge and the charging party's right to sue, or

-- if the only alleged discrimination occurred on or after April 8, 1988.

If a person believes that his or her charge falls within the stated criteria and has not received notice from EEOC, the person should contact the EEOC district office processing the charge to receive the necessary guidance.

Persons wanting more information about their rights under the Claims Act can call toll-free 800-USA-EEOC, and after listening to the introductory message, push the number 2 on their push-button telephone to be connected to the EEOC district office in their area. Those with rotary phones will automatically be connected with the district office in their area after the introductory message.

ADEA protects workers age 40 or older from employment discrimination based on age. In addition to ADEA, EEOC enforces Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex or national origin, the Equal Pay Act, and in the federal sector, prohibitions on discrimination against handicapped individuals.

# # #

The CHAIRMAN. Mr. Chairman, I think you told the House Aging Committee this past January that you did not think the Commission had to track statute of limitations cases. I don't understand that.

Mr. THOMAS. I missed your question, Mr. Chairman.

The CHAIRMAN. At a House Aging Committee hearing this past January, you stated that you did not think that the Commission had to track statute of limitations cases. Do you recall that testimony? I think it might be on the last page of what has just been handed to you.

Mr. THOMAS. Oh, I didn't think that we would have to tell responsible district directors who made $75,000 a year that they shouldn't miss the statute of limitations. That is what I meant by that, that some were not tracking the age of our inventory,, not putting in place tickler systems for individual offices.

The CHAIRMAN. So, did you find it rather hard to believe that this actually happened?

Mr. THOMAS. I thought it was incredible. To me, I am a lawyer. I have had to make the midnight run to the office to make sure I hadn't missed statutes. And I didn't think that any individual who had cases within her or his jurisdiction would feel any other way.

It is grounds for disciplinary action or disbarment in many instances or at least malpractice for lawyers, and I thought that our own top level managers—and I mean top level in the Federal Government—would have that same sense of responsibility. Many did; some didn't.

The CHAIRMAN. One thing that has concerned us has been that, apparently, district offices have sent in notices or memos asking for instructions on just what to do about aging cases that had run the statute of limitations or were about to run the statute of limitations. Yet, I don't think you were advised of that, were you?

Mr. THOMAS. I was not—I may have been advised in one or two instances. This has been an occasional thing since I have been at the Commission, but my attitude toward a senior executive in the Federal Government is that if we have to tell them not to run the statute of limitations, they shouldn't be in the senior executive service.

The CHAIRMAN. Perhaps you are personally responsible that you have had 172 age claimants receiving the notice required by the 1988 act, in other words, notifying them that they had an additional 18 months before time was up on the statute of limitations. Did you find that your legal department had stated that those cases were recommended for no litigation by the legal department and found that perhaps you ought to have 172 of those particular claimants notified of the extension of the statute?

Mr. THOMAS. Again, with respect to the cases that were in the General Counsel's shop, we have gone through those thoroughly. I think they have made an assessment of which ones they feel there may have been a chance that we should have gone back to court on or investigated further.

However, our effort was to err on the side of caution and to send out notices wherever we thought it might be possible that there was a case. With respect to the exact number, if you want to go

through each case, I think I would have to ask the General Counsel to go through each one of those specific cases.

The CHAIRMAN. There was a point we asked Ms. Ehrlich about some of these notifications, some of these charges that is very confusing to me and she could not respond to it. There were 69 charges that ran the statute in fiscal year 1987 in the Houston office. She doesn't have that many. Why is there that discrepancy?

I assume the 69 that were advised that their charges had run the statute in that particular district office, which is more than what she has on record, is part of the reason that 1,200 number there is so much different than the 350 for the same fiscal year.

Mr. THOMAS. Well, she, of course, reported the numbers. The subpoena request went directly to the field offices, and I would assume that the numbers that she gave you were the numbers that she reported, that is, the 47. I don't know where the number 69 comes from. Perhaps Mr. Troy who heads up our Office of Program Operations can tell us.

The CHAIRMAN. Mr. Troy, can you enlighten us?

Mr. TROY. On January 22 of this year, we wrote each district office and told them not just to send us numbers as the subpoena requested. We asked for the charge number, the date of violation, the date of filing, the date of closure, and we got those responses from each of our district offices. We put them in the computer and counted them.

We have a listing and so does your investigator, Mr. Michie. He has this very same listing. We show every charge number, every case that exceeded the statute in EEOC that we could find for those 2 years, 1987 and 1988.

Now, Ms. Ehrlich received some charges last year from Oklahoma City. It may be that some of those charges, four or five of them—it may be that they are from Oklahoma. I don't know yet. I would have to go back and look to see why the discrepancy in numbers exists.

But we believe in the statistics that we gave you, because we gave you each charge.

The CHAIRMAN. I thought maybe that would enlighten us.

Mr. TROY. Oh, Ms. Ehrlich just gave me some numbers and the number of cases she got from Oklahoma was 22.

The CHAIRMAN. 22.

Mr. TROY. Yes, but the point here is that I would have to go back and see if we can make some kind of reconciliation of the exact charge numbers that we are talking about and compare them with hers.

The CHAIRMAN. Well, 22 and 47 does make 69. So, maybe that is the discrepancy.

What is different about those 22 cases from Oklahoma?

Mr. TROY. Well, they were transferred into her office because Oklahoma couldn't get to them. We have had staffing problems and management problems in Oklahoma.

The CHAIRMAN. Well, they are not double reported now, are they?

Mr. TROY. No, they are not. You will notice when you look at this report that you see every charge number, and the first three

digits will tell you the difference in numbers for Houston and Oklahoma City.

The CHAIRMAN. All right, that clears that up.

Now, there is one other point. We understand that 32 of the 69 charges exceeded the statute, 32 of these 69 charges, exceeded the statute for reasons that were unacceptable. Now, I am asking to be enlightened on that. Does that mean that headquarters cannot accept that 32 of those charges and the reasons they exceeded the statute was just not acceptable to headquarters, or is this just some faulty information we have?

Mr. TROY. We tried to tell that to your investigators, too. We asked the district offices not only to tell us each charge that exceeded the statute but to give us their reasons as to why the charge exceeded the statute.

We looked at the 26 different reasons that we received from the district offices, and we determined that of those 26 reasons, 5 of them were totally outside of the control of the person who is managing the office. We believe that the other 19 reasons that were given by the district offices did not set up circumstances that were outside of their control, lack of staffing, et cetera, because a district director has the authority to move any charge he or she so desires up front for processing as we have told our officers to do now for all age charges.

The CHAIRMAN. So, 32, you felt, were their fault and inexcusable?

Mr. TROY. Let's not say it is their fault. The conclusion was that the district director could have moved the charge in front of other charges and processed that charge possibly within the statute.

The CHAIRMAN. Well, I think that clears it up. I guess you share—well, I shouldn't ask you that.

Chairman Thomas has been very candid about how strongly he feels on this point. I suspect you share that opinion?

Mr. TROY. Yes, I do, totally.

The CHAIRMAN. Chairman Thomas, can you tell me why at least three district offices, beginning in early 1986, had indicated that the age discrimination cases were exceeding the statute of limitations—why you weren't knowledgeable about those reports?

Mr. THOMAS. With respect to individual offices, I think, as I have noted, from time to time, we did know that we had specific problems in specific offices. I know, for example, in Detroit, we did not have a district director or a regional attorney for quite some time, or certainly not the individuals that we wanted. In St. Louis, we went through the process of removing a district director, and we basically did not have stable leadership in that office. So, we knew we had management problems that went across the board.

I would suspect that any problems that would have been noted in 1986 by the top managers in the Office of Program Operations would have been somehow related to the lack of leadership in those offices.

But with respect to my being notified on all aspects of every single office, I am not notified. With respect to age charges, I per-

haps should have been notified. I was not, but that certainly won't be the case in the future.

The CHAIRMAN. We have two documents indicating that personnel in headquarters developed numbers of such charges, charges that were running the statute, totaling 938 in September 1987. You must have been notified of that, were you not?

D #4

DEPOSITION EXHIBIT

Troy M 8

7-Sep-87

Senate Special Committee on Aging Request for Information

Office	Open ADEA Directeds 9/8/87	Total Open ADEA Charges 9/8/87	Of open charges, # which are class charges	Of open charges, # which are individual	Of open charges, # which have exceeded 2yr S/L	Of open charges, anticipated # to exceed S/L as of 9/30/87
Atlanta	1	59	6	221	0	0
Baltimore	4	62	21	51	(156)	15
Charlotte	1	28	5	23	45	4/2
	8			442	1	1
strict Totals					17 2	

3 62

3 17

5 5 1

3 8 7

9 3 8

7-Sep-87

Senate Special Committee on Aging Request for Information

Office	Open ADEA Directeds 9/8/87	Total Open ADEA Charges 9/8/87	Of open charges, # which are class charges	Of open charges, # which are individual	Of open charges, # which have exceeded 2yr S/L	Of open charges, anticipated # to exceed S/L as of 9/30/87
[illegible]	2	105	0	100	2	2
Philadelphia	24	524	135	425	247	204
Los Angeles	9	116	216	960	112	5
strict Totals						

362

9-Sep-87

Senate Special Committee on Aging Request for Information

Office	Open ADEA Directeds 9/8/87	Total Open ADEA Charges 9/8/87	Of open charges, # which are class charges	Of open charges, # which are individual	Of open charges, # which have exceeded 2yr S/L	Of open charges, anticipated # to exceed S/L as of 9/30/87
Cleveland	2	75	6	739	7	1
Miami	10	258	17	368	4	6
[illegible]	12	62	4	797	4	4
New Orleans	1	26	10	212	2	2
strict Totals						

9/11/90 [illegible]

Office	Director Changes	Class/ Individual	Past SOL 9/8	Past SOL End of FY
Phoenix	8	17/195	1	—
Denver	14	256*/492	10**	10**
Dallas	8	33/975	134	66
Indianapolis	0	12/356	4	4
San Antonio	0	2/240	5	1
San Francisco	1	0/15	0	0
LA	1	8/539	132	0*
Milwaukee	1	22/202 (54/48)	33	35**
Chicago	1	38/371	7	9
St. Louis	3	No way to determine - not in data base	2	16
Seattle	0	0/278	18	20
Houston	7	15/377	51*	41

*60 Cont AL

**5 pursued as willful

*special project - hope to close all but many below 30 T-VII & ADEA Concurrent

(individuals/examples)

They are having a Open House today - 4's are slow in coming

30 are ARAMCO

** Includes approx 11 cases which will be recon Case by year end. CODs being issued by 9/12. Also said. 6 as conc CODs

Mr. THOMAS. In September 1987, I believe, going through the process of staff ratings, Mr. Troy who heads up the Office of Program Operations, and who is responsible for the ratings on performance agreements from the field, may have looked at those numbers for individual directors. He then investigated them.

Subsequent to that—I was not aware of this specific undertaking—in early November, I was told by another district director, in fact, that some offices, in particular, the St. Louis district office, were not inputting all data into the computer which, of course, infuriated me, because the data system is only as good as the accuracy of what goes into it.

I returned and informed my staff, including Mr. Troy, the senior staff, that anyone caught not inputting accurate data and all data into the computer system, as far as I was concerned, that was grounds for removal.

Subsequent to that, he reported to me the extent of his findings, I believe in December sometime, and that is when we made that matter public. But I was not aware of it until December, and I was not aware of the inputting problem until November.

The CHAIRMAN. This is very disturbing in that in early September—this is dated 9 September—there are 125 listed in Baltimore; 46 in—I can't read it very well but I suppose it is Birmingham; 209 in Philadelphia. I am just reading the larger numbers—were open charges anticipated to exceed the statute of limitations as of September 30, just within a few days.

Mr. Troy, do you know much about this?

Mr. TROY. Yes, that has been reported to you, Senator. If you look at the first page of the report that I gave to the Chairman in March, it covers the history of our investigation into the problem.

If you note, we asked our district offices by telephone to answer certain questions for us. One question asked was the number of cases in your active inventory that had exceeded the statute by September 8. The other one was the number of age cases in your inventory that might exceed the statute by September 30.

The answer to the first question, when we added them up was 938. The answer to the second question was 603.

Now, if you notice, there are a lot of things that happened after that. I reported to the Chairman in December that situation. I was told that we needed to get out and find out the full extent of the problem.

Then we went back and asked different questions. We said, tell us any case in your inventory for 1987 and 1988, whether it was active or closed in those 2 years, that exceeded the statute. The March report that you have as a part of the documentation we gave you contains this information.

The CHAIRMAN. So, I guess you knew this was coming down the track then at that time, sometime in September.

Mr. THOMAS. No. I knew that with specific district directors we might have some problems, but my estimation would be a couple of cases here or there. But in November when I was alerted by our district director in New Orleans that people were intentionally keeping age data out of the system, the St. Louis district office, that was when I became alarmed that we might have a much larger problem.

The CHAIRMAN. Will you straighten this out for me? I didn't name New Orleans or what was the other one St. Louis?

Mr. THOMAS. St. Louis.

The CHAIRMAN. I was referring to Baltimore and, I believe it is Birmingham. Baltimore, 125 expected to exceed the statute of limitations by September 30.

Mr. THOMAS. No, I was not aware. Those were, again, as Mr. Troy noted, those were telephone conversations that he had with his district offices during the rating cycle.

The CHAIRMAN. In Philadelphia, 209.

Mr. TROY. If you notice there, Senator, you will notice that St. Louis also reported two charges. We knew that to be in error because of transferring charges between St. Louis and New Orleans.

Mr. THOMAS. That reporting of two charges is the indication of how I came to find out that there was a problem. That is, that the number of charges in our data system was underreported for that office. That is when I became aware that we had a serious problem.

The CHAIRMAN. I can understand underreporting being of a concern to you, but I am talking about what was reported.

Mr. THOMAS. It wasn't reported to me, Mr. Chairman.

The CHAIRMAN. Well, I want to direct this question to Mr. Troy.

You share the same strong view as Chairman Thomas that this is a very serious failure on the part of the Commission. What did these numbers mean to you, 125 at Baltimore, 46 at Birmingham, 209 in Philadelphia? Those figures do not indicate anything but a vast number of cases that were going to run the statute of limitations in approximately 20 days.

Mr. TROY. What it meant to me, Senator, was that if we had that many in the open inventory, I had better tell my boss that we had a big problem. Once we got the open inventory numbers finalized, I told Chairman Thomas that, and I was directed to go back and investigate the rest of the problem.

That is the report you have. The full report was 1,608 cases as of the first quarter of 1988, between 1987 and 1988. That was our full report, and then we set about establishing procedures to keep it from ever happening again.

The CHAIRMAN. Well, now, just put this in context. You must have spoken to Chairman Thomas by November, because it was then that Chairman Thomas became aware that there was a serious problem.

Mr. TROY. It was in November when we were doing the evaluations of the district directors, and that is when we had a real serious conversation about it.

The CHAIRMAN. That Mr. Thomas became directly involved in it.

Mr. TROY. Yes, he did.

The CHAIRMAN. But you were directly involved in it in September. Am I right?

Mr. TROY. I started the study in September, yes.

The CHAIRMAN. It was more than a study, wasn't it? Am I reading this correctly when it says in Baltimore there were 125 open charges anticipated to exceed the statute of limitations as of September 30?

Mr. TROY. Yes. I asked them in late September, but the point is that—I don't know your question from that. I asked them in Sep-

tember. It was after the 8th of September that we asked the question.

The CHAIRMAN. Yes.

Mr. TROY. And once we got the information together, we saw we had a super problem, and then we went forward with it.

The CHAIRMAN. All right. I guess it is just a question of when it became, in your view, a serious problem, and you are telling us it was after September.

Mr. TROY. Yes, after we got the report and as we were doing the ratings of the district directors and we saw what—if you also look on there, you will see some of the offices have very few cases.

The CHAIRMAN. Yes, there are some that had one.

Mr. TROY. Yes, Charlotte. You see San Francisco didn't have any.

The CHAIRMAN. I see six and four and two and five.

Mr. TROY. You see, that does not represent on its own an overall problem. That report represents a problem in six offices. Now, anytime a case passes the statute, we have a serious concern about it, but when you talk about an agencywide management problem, that means I have to look further before I come to a conclusion that we have to take drastic measures across the board.

I share also the Chairman's concern or conclusion that I did not believe we had to give specific guidance to bring to the attention of district directors that there was a statute of limitations in age cases at that time.

The CHAIRMAN. You did not believe what, Mr. Troy, that there was sufficient guidance?

Mr. TROY. No. I did not believe that we had to give specific guidance to SES managers about the statute of limitations.

The CHAIRMAN. Oh, yes, I see.

Aren't some of these notifications coming out of State offices? It seems like notifications of the extra 18 months. Is that dovetailed in now with headquarters? Previous witnesses testified that part of them in Charlotte were notified out of the office there and part out of headquarters. Is it all dovetailed together now?

Mr. THOMAS. It will all come together and it all is coming together in the Office of Program Operations, and we will have a full report on that in the very near future. Perhaps I could have Mr. Troy elaborate further on that, but all of it is coming together. We do have some duplication, and we will make absolutely sure that it is all ironed out.

The CHAIRMAN. I think, Mr. Troy, that it seems like those offices that have not been notified what notification has gone out from headquarters will be notified next week. Is that correct?

Mr. TROY. All offices have been notified as to what was sent from headquarters. It was done the week after we sent the notifications out, the week following May 27. We sent each district office a list—a printed list by name, charge number, address, violation date, and closing date or whatever the last status action was—to each district office from which we mailed charges out.

We also sent a package to the State agencies with which we have contracts. We had sent them a package before to tell them to notify everyone whose case exceeded the statute while in their jurisdiction. They are to report to us. So far, we have 23 of the 43 reports.

The law, I think, gives us 6 months to complete our report to Congress.

The CHAIRMAN. First of all, Ms. Ehrlich hadn't received in the Houston office this notification apparently.

Mr. TROY. Well, I hope Ms. Ehrlich sees it when she gets back, but it has been there since we mailed out the list.

The CHAIRMAN. I want to clear up one point that arises just on your past statement. Are some of these age cases handled by contracts?

Mr. TROY. Yes, they are.

Mr. THOMAS. That is misleading. Some of the cases go to State agencies. We subsidize, up to a point, from the Federal Government, some of the processing of those cases with the State agencies, but they have jurisdiction over those cases in some States.

The CHAIRMAN. Would that explain, then, the difference between 1,200 in fiscal year 1987 as compared to 350 in fiscal year 1987 on that chart?

Mr. TROY. Frankly, we don't know what that chart actually represents. If I can comment on what I heard this morning, it seems to represent what was counted by your staff as the result of the subpoena. You specifically told us—interpretation was that headquarters was not to reconcile anything that came from the district offices in response to the subpoena, and we did not.

The 1,200 figure is represented in this report, right here. You have every charge number, every violation date, and the length of time it stayed in our system. I really don't know what that chart represents.

The CHAIRMAN. You wouldn't know what the 350 represents?

Mr. TROY. No, I do not.

The CHAIRMAN. But you are certain that the 1,200 is accurate?

Mr. TROY. I am almost positive.

The CHAIRMAN. One point of clarification. If a State agency is handling part of the aging cases, the district office would still be responsible for reporting those to headquarters?

Mr. TROY. Yes, they would. The contracts with the State agencies are administered by the district offices.

The CHAIRMAN. That is a misleading term, isn't it, contracts?

Mr. THOMAS. It is, because—the reason it is, when you think of contracting, we take work that we would normally have full responsibility for and give it to someone outside of the agency and have them do the work. In many instances, in some States, that is, we have dual jurisdiction, and we are required by statute to defer to those States.

The CHAIRMAN. And rather than a contract, it is a subsidy of $400 per case. Is that right?

Mr. THOMAS. Exactly.

The CHAIRMAN. We are sensitive to this point. Part of the information you have provided to us is entitled "Information for Aggrieved Persons and their Attorneys." It states that "If the EEOC closed your charge before October 1, 1986, it is likely that the case file on your charge was destroyed."

Aren't many of these files available yet?

Mr. THOMAS. Well, I will go back to what I said to you before with respect to information and what we found and what we con-

tinue to find. The reason none of us will be able to reconcile all the numbers that we have is that none of us can tell you that the system that we inherited was accurate. I can't tell you that, and I certainly was the one who had to use that information to come to the Hill to testify for appropriations and for oversight. So, I know it was a problem.

In addition to that, however, there was a very quick record destruction schedule that went along with that system, and I believe it was 6 months after the case had been closed, and that is a lot faster than anything I have seen before. We, of course, have extended that so that we can have the numbers much faster or have the cases much longer, but those records were destroyed as a part of the record destruction schedule or may have been destroyed.

We extended that record destruction schedule from 6 months to 2 years.

The CHAIRMAN. I want to just clarify one point. The district office is responsible for any State agency age claims. Does it ever happen that—how do you determine—I hate to reach a conclusion in my question but it seems like your records or the data you have supplied to us from the Los Angeles District Office indicate that the Commission paid a State agency for cases that had already exceeded the 2-year statute of limitations.

Do we interpret your data correctly? Do you know, Mr. Troy?

Mr. THOMAS. I don't know exactly what information that is or what is considered to have exceeded the statute of limitations. I am not, frankly, familiar with cases in the L.A. office.

The CHAIRMAN. You are not familiar with it either, Mr. Troy?

Mr. TROY. Not to that extent.

The CHAIRMAN. Perhaps you could look over this memorandum and respond to the question if it is true. I don't suppose you can get your money back, but it is another disturbing thing on how you track these cases.

There was quite a bit of testimony yesterday about a numbers driven system, in other words, report how many cases you have that are 300 days old and then, apparently, reduced to 270 days old.

Is the number driven system the best way to handle it, Mr. Chairman?

Mr. THOMAS. Well, maybe we needed the numbers driven system not to miss the statute of limitations. In fact, one of the things that I think we were rightly criticized for and we didn't think we had to do, was to have a system that said do all the cases before the statute of limitations ran. So, I think, to some extent, it certainly is necessary.

But you are looking at an agency that, in fact, if you look at the numbers that we have, has far less than the agency had when I came on board. They were required, I think, if I remember correctly, to settle 45 percent of their cases. Well, who knows what percentage of your cases you can settle?

They were required to have very specific numbers that they met in very specific ways in order to get their ratings. Now, with respect to each of the investigators and the agreements that we have, the GPAR agreements, all of those were negotiated, of course, with our union, but as a management tool, there is no way we can, with the responsibility to handle the number of cases we have with the

small staff that we have, not to be cognizant of the fact that we have to be conscious of the number of cases that we do.

We are already running a huge inventory, larger than we were in fiscal year 1983, and the staff is shrinking. At the same time, if you look at the heavy emphasis over the past 6 years, you will see that we have emphasized over and over and over again quality of investigations, that you can't just pitch cases out of the agency. You actually have to investigate them for a change.

So, we are trying to balance both, but we are up against it. It is as simple as that. We are treading water with the size of the staff that we have.

The CHAIRMAN. That backlog has risen from 1983 to 1987. I believe those are fiscal years.

Mr. THOMAS. That is right.

The CHAIRMAN. Now, the amount of the appropriation for this fiscal year was $179 million.

Mr. THOMAS. That is right.

The CHAIRMAN. By the way, I think one of the things that has been made clear here in this hearing is that Congress should certainly review whether or not this amount is adequate, the $179 million, and I have discussed with you earlier this week what you anticipate in next year's appropriation, and it is again $179 million. Is that correct?

Mr. THOMAS. That is right. Actually, for our purposes, it is. In the Senate, it is $181, but $1.2 million of that is earmarked. So, it is basically for our S&E account——

The CHAIRMAN. $179 million now.

Mr. THOMAS. That is it exactly. It is the same number.

The CHAIRMAN. When you started in 1982 as the Chairman, what was the appropriation then?

Mr. THOMAS. I believe that year it was $145 million, and we lapsed in my first year, I think, about $5 million, between $4 and $5 million. That is why it became important to really put in an accounting system that worked.

We also got—it is kind of unfair to say that is the number, because we got a supplemental appropriations in the last 2 weeks of the fiscal year. That just basically passed through our account and right back into Treasury, because there is no way we could spend that amount of money in 2 weeks.

The CHAIRMAN. Did that $145 million remain about the same for several years?

Mr. THOMAS. The $145 actually went up. Maybe I could have someone give me the total number, but our numbers actually went up. What we tried to do was to maintain as constant as possible the number of staffers that that supported. That is, the resource that we look at is our FTE, and the resource that we try to support is the FTE. We have not been able to sustain and support the FTE that we had in fiscal year 1982.

Quite frankly, we wanted to be up around between 3,300 and 3,400 FTE's, and I think we would have to be around $200 million in order to support that kind of FTE.

But the budget has gone up in overall numbers. In fiscal year 1983, we were at $147 million. In fiscal year 1984, $154. In fiscal year 1985, it was $163.6 million. It was $157.9 million in 1986. That

was Gramm-Rudman, I believe, and it was $169.5 million in 1987 and $179.8 million in fiscal year 1988.

The CHAIRMAN. Full-time employees has shrunk from the time you came on board in 1982 from about 3,400 to slightly over 2,900, I believe. Yes, it is right there. We are in fiscal year 1988 now, and I think the 2,941 reflected in fiscal year 1987 is about the same number in fiscal year 1988?

Mr. THOMAS. Well, what we projected, Mr. Chairman, if you look at fiscal year 1982, the 1980 and 1981 are really strange, because there was massive hiring during the lame duck session after the last Administration, the Carter Administration. So, that number is skewed somewhat. But if you look at 1982 which is, I think, a good number, you see 3,166.

What we budgeted for was 3,198 for fiscal year 1988 and into 1989 with the $193.4 million. We thought that that number, 3,198, would allow us to begin to push the inventory in a downward direction.

Now, those numbers, what we have up there now, are pretty accurate. It basically shows that with the budget that we have for this current fiscal year—well, it shows last fiscal year, but this current fiscal year, the number that we supported was 3,198. That is for the 1988 fiscal year. So, that went back up.

It will have to go back down to the 2,941 range—actually, I believe below 2,900—for fiscal year 1989. But our effort was to get back up to close to 3,200 employees.

The CHAIRMAN. That is what you think would be about right?

Mr. THOMAS. Actually, I think that in fiscal year 1988, our budget should have been around $200 million. Of course, coming through the process, it was whittled down to $193, and we thought that was livable, but where we are now is disastrous.

The CHAIRMAN. $179 simply doesn't cut it?

Mr. THOMAS. $179 million would require a miracle for us to be able to dig into the inventory or—and this is something that I would not recommend—go back to the system of just processing cases. If you want to talk about a numbers game, the highest number of charges ever processed in the history of EEOC, were processed in fiscal year 1983, 73,000 charges. That is when I realized that we had a serious problem with quality.

Now, if you want to go back to a system that emphasized rapid charge and just processing over field investigation, we could do this workload with the smaller numbers, but I don't think that is right, and I certainly couldn't be a party to that.

The only other option to do it right would be to continue to upgrade the agency with training, with automation, but that is also going to require more resources. It is as simple as that. We can do the best that we can, but we need more resources.

The CHAIRMAN. If that appropriation holds for next fiscal year and isn't augmented, is it going to be necessary for another extension of the statute of limitations?

Mr. THOMAS. No. We simply won't do any cases—what you are looking at, let's assume that we can do 80 percent of our work that comes in and that we are working off a figure of 20 percent of our workload being age cases. Then we are going to be approaching a

point where over a third of the cases that we are able to do in a fiscal year are going to be the age cases.

The age cases will always go up front. So, essentially what we are saying is we are going to have to push back all of the other cases, that is, the sex and race and national origin and religion cases. We can't do it all. Age cases must be done, so the others will be pushed back.

The CHAIRMAN. I am personally alarmed at what you have told me and what has been testified to here on the workload, for instance, of investigators. I believe it is excessive. Instead of getting rid of all their cases in 300 days which there is an attempt to do, they are told to try to get rid of them in 270 days. Do I interpret that correct?

Mr. THOMAS. Well, one of the things that we inherited, Mr. Chairman, was individuals. The goal was to do a certain number of cases a year. Let's say that number was 100. Individuals could go and pick and choose the easiest 100 cases.

The problem was that you had cases that were difficult or that would require real investigation that would languish for 2, 3, 4, 5, or 6 years. That is a problem.

What we are trying to force here is not allowing the inventory to grow old, to grow to a point where they are 6, 7, 8, or 9 years old. We are trying to hold it below 1 year in our workload. That is what we are trying to accomplish with that.

The CHAIRMAN. Senator Durenberger?

Senator DURENBERGER. Mr. Chairman, thank you.

Chairman Thomas, my colleague, Dick Lugar, has just written a book which he doesn't charge very much for——

[Laughter.]

Senator DURENBERGER. I got mine for free—called "Letters to the Next President." And you and I have met before this meeting, and I understand you to be a man who feels things fairly strongly, and you have been very responsive to the questions that the Chairman here has directed to you. I know you have sensed a lot of frustration since this committee began its investigation last August or September of something like that.

I think you have done a good job and so have others here who have been involved in one way or another over the course of the last two days in being responsive to the questions, but I would like to focus—and if you would just think about this a little bit in terms of letters to the next President. I don't know if you are going to be around here in January or beyond. I don't know if you care. That is not the question I am asking. [More laughter.]

Senator DURENBERGER. The question I am asking you is, I know how you feel about what you inherited. I know how you feel about what you believe that you and your staff have been able to accomplish, and I know how you feel about some of the things that you think ought to get done in the area of age discrimination and this process.

What I don't know is exactly what you might tell your successor or you might tell the next President when he walks into office and say here is what needs to get done in that place. If you believe in age discrimination and the need to do something about age discrimination, fulfill the law, here is what is wrong in that place and

here is what needs to be changed and here is what I think needs to be done about it.

Mr. THOMAS. I think, first of all, with respect to my successor, my statement to him or her will be I offer you my prayers and my sympathy.

With respect to the President—and I think that is where it should start—my statements would be that this agency has to be in a free enterprise system where, basically, the economic freedoms where people really go out and earn the wherewithal to enjoy the freedoms that we have in this country really become a reality, but you have to make it an agency that can enforce equal opportunity.

What we are doing now is that we are living a lie, and we are being hypocrites. We are all going out and we are saying that this is what is fair, this is what is good, this is what is just, this is what is holy, this is what we all believe in. And then you take the agency that is supposed to do it—a virtually impossible job—and you fund it like you really don't give a dang, that you really don't care, that it is low priority.

I think if there is one thing that I could leave it is the insistence that the agency become high priority. There is no reason, in my opinion, in this country with its vast resources why something as essential, something as critical as the principle of freedom that we enjoy in this country and economic freedom, why we can't find $200 million to protect that freedom.

If it is so important, then my attitude is that it is at least worth $200 million.

We do a lot of other things in this country that cost us $200 million that I question. Certainly, when I get my tax bill, I do question it. I do not question enforcing equal employment opportunity laws when I look at my tax bill.

That is absolutely critical, or someone like myself or Jim Troy, particularly women and the older workers, would not be here to be talking to you or this committee or to be complaining about the agency not working, because we would not have the rights that the agency supposedly is enforcing.

So, I would tell the President to get on the ball, make the inclusion of all people in this country top priority, and fulfill the words of the Declaration of Independence that all men—of course, that includes women—all men are created equal, and that is the end of it.

Senator DURENBERGER. The second part of that is and one of the things that is different in this country now from what it used to be is that people are asking what they get for their money these days, and I guess that is what the next President is going to ask you. You say we need more resources. So, the second part of that question is, for what?

Again, concentrating on the area that we know is going on, and that is this prevalent discrimination against people on the basis of age in this country, what should those additional resources be used for?

Mr. THOMAS. That is a fair question. It is just ironic that several weeks ago, we received one of OMB's First Quality Awards, not because we have done everything perfectly, but because we spent the

last 4 years building a quality program, not only quality of work life but just quality of the work product.

It has been difficult, but——

Senator DURENBERGER. Did you get that from the budget side or from the management side of OMB?

Mr. THOMAS. Well, we got it from Jim Miller and Joe Wright, so I guess we got all the bases covered this time. That is rare, though. I will admit it.

I think that we have given, for the dollar that we receive, more than any other commission has ever given. We collect more money. I will tell you, traditionally, before we took over in the last 6 or 7 years, it was traditional not even to investigate age cases.

We investigate the cases. We could avoid the problem of their running the statute by throwing them out. We have filed more law suits.

We have used every penny of the money that we have gotten from Congress as judiciously and as carefully as we could. Someone said that I spent the government's money like I spent my own. I told them I am not that loose with the government's money. That is my attitude. We owe it to the general public and the people whom we serve to spend it wisely.

We have pinched pennies. We have more there than ever was there before, and my point is that for us to get over the hump, to really maximize the dollar, we need more assistance. We are not saying go up to $300 million. We are talking about a marginal increase. We are right at the margins of success, and we thought we could have made it this year with the President's request.

But I think you are going to get a better product, you are going to get better investigative cases in the age area, you are going to get better litigation, you are going to get better enforcement, you are going to get better or more respect for what we say—and that is all-important—and, as a result, you are going to get more deterrence to age discrimination.

Senator DURENBERGER. Do you believe there is a lot more age discrimination out there in America than you ever see in your offices?

Mr. THOMAS. Oh, yes, absolutely.

Senator DURENBERGER. What do you think the national government, in its responsibility to make sure that we follow up on the all men and women are created equal philosophy—what do you think the responsibility of the national government through the Commission is in that area?

Mr. THOMAS. I think we have to be top priority, Senator. I just think that we certainly are headed in the wrong direction now. It has to be a top priority. It has to be something that is important.

You can't just forget about it. The EEOC is sort of a stepchild. It is forgotten about until something goes wrong. And I think it has to be on the top of the agenda early on. It has to be fully funded. It has to be something that is discussed, something that is considered important, because if there is any role for government on the domestic scene, it is to protect the rights of the people who live in the country.

We talk a lot about foreign invasion, and we talk a lot about keeping people out of the country. What about the rights of the people in the country?

I think it is really ironic that the penalties for an employer who has an undocumented worker in his work force is stiffer than for an employer who violates the rights of a citizen of this country. I think that is incredible.

We have to at least have that kind of priority.

Senator DURENBERGER. What is the relationship between the EEOC Commission and its offices and State commissions against discrimination around the country?

Mr. THOMAS. In many instances, our jurisdiction overlaps, and what we try to do is coordinate workload. We advise them and we are the lead agency, and many take a lead from us. They have different statutes. We share workloads.

It has been, as far as qualitatively, a relationship that has been improving. We do not have the funds necessary. Many of the State and local governments have been really cutting back the resources of these agencies and expecting us to pick up that resource gap.

We haven't been able to do so. We have been level funded for the past 3 or 4 fiscal years. I have attempted to get that up where I think it belongs, but I have been no more successful with that than I have been with my own——

Senator DURENBERGER. What happens in the case—there has been a lot of discussion here of the statute of limitations and so forth. What happens in terms of the rights of a claimant or a person who loses their rights, in effect, because of the expiration of the statute of limitations? Have they access under certain State laws in many States in this country to prosecute their claim under other law?

Mr. THOMAS. In most instances, with respect to the age claim, it is over. The rights are extinguished.

Now, if they have something that they can file under some other claim like breach of contract, they may be able to go that route, but as far as that age claim, if they have chosen to go under our statute, the ADEA, it is over.

Senator DURENBERGER. That losing here because somebody got lost in a file, didn't have a computer, all the rest of the stuff that has been brought out in this hearing, that is it for these people.

Mr. THOMAS. That is right.

Senator DURENBERGER. They can't go to the city of Minneapolis under the ordinances there or they can't go to the State of Minnesota Human Rights Commission or something like that with the same claim.

Mr. THOMAS. That is right.

Senator DURENBERGER. When the 2 years is up, that is it.

Mr. THOMAS. That is right.

The CHAIRMAN. Isn't it true, Chairman Thomas, that the $400 subsidy per case for the State agencies has been locked at that position for quite a while, too?

Mr. THOMAS. That is right. We raised it and locked it. We cannot afford——

The CHAIRMAN. When did you raise it?

Mr. THOMAS. In 1983, I believe.

The CHAIRMAN. So, roughly during the period of time we are talking about——

Mr. THOMAS. In 1985, I am sorry.

The CHAIRMAN. During the past several years when you have been stagnant, they have been locked into position, too, at $400. That is $23 million a year.

Mr. THOMAS. That is about $20 million now.

The CHAIRMAN. It is about $23 million.

Mr. TROY. It is $20 million.

Mr. THOMAS. We requested $24 million, I believe, but——

The CHAIRMAN. It is at $20 million. It is locked there.

Mr. THOMAS. That is right.

The CHAIRMAN. Well, when you deduct that from your $179, you get about $159 million.

Mr. THOMAS. That is right.

The CHAIRMAN. When you divide 3,000 into that, it is $52,000 and some hundred per employee. Now, that is a little bit higher, probably, than most Federal agencies.

Mr. THOMAS. Well, you have to pay rent, you have to pay——

The CHAIRMAN. I understand that. I am talking about support per employee. The total includes wages, rent, telephone, lights, travel.

Mr. THOMAS. That is right.

The CHAIRMAN. So, I think it has to be a little bit higher—and I am taking your point of view, because you are higher in investigators, you are higher in some lawyers, you are higher in some staff people that are required. You are not going to be able to hire them unless you pay that range. Is that not right?

Mr. THOMAS. Well, our salary grades are consistent with the Office of Personnel Management. So,——

The CHAIRMAN. I can believe your problem on funding, and I think you do have a problem. I congratulate you for getting Jim Miller, as OMB director, to say that you are underfunded. Not every agency has been able to do that, but I think over the last 2 years, and just the last 2 years, fiscal year 1987 and fiscal year 1988, or fiscal year 1988 and fiscal year 1989, you have won his attention and got his support. I don't think you had their support before that.

Mr. THOMAS. Well, Jim Miller was not there.

The CHAIRMAN. No, he was not there, but OMB support.

Mr. THOMAS. Yes, well, OMB is a strange being. That is meant in a positive sense. [Laughter.]

The CHAIRMAN. Oh, I know you did.

Mr. THOMAS. In case OMB is listening.

The CHAIRMAN. Chairman Thomas, we are always flattered when we have television cameras covering us here. Did you hire the smaller television camera there?

Mr. THOMAS. The smaller one, yes, so we can send the hearings to the district offices.

The CHAIRMAN. As part of the training program?

Mr. THOMAS. No, part of the communications that you talked about.

The CHAIRMAN. Oh, part of the communications. [Laughter and applause.]

I think that is good. We are always pleased about that. It might not go down so good with Miller, though. OMB is tough about those things, aren't they?

Mr. THOMAS. Well, let's put it this way. I have been in this city and this job, and I have been to all the other agencies. I have been to the State Department which is taking over our building and refurbishing it in the standard to which they are used to living and certainly raise it from the slum level that they left us. I have been to smaller departments. I go to the Comptroller of the Currency. I listen to former Chairman Volcker. I talk about the concerns that they have, and you find out that all the things that they have.

EEOC is living on the margins. I don't think there is another agency in government that is treated as poorly. We have the worst building. We have the premiere sick building for a headquarters. We are put in terrible space in the field, and what we try to do is change that.

So, I don't think that Jim Miller will grouse too much about one small camera to send the video tape out to the field.

The CHAIRMAN. Mr. Chairman, you have several more years to go in your term. Believe me, I am going to carry the same message to the next President of the United States that you just spoke. You ought to be treated better.

Mr. THOMAS. If he is of your party, maybe he will.

The CHAIRMAN. If he is of my party, maybe he will do something.

Mr. THOMAS. If he is of your party, you will have to catch up with me in the private sector. I am not going to stay. I can guarantee you that. [More laughter.]

Mr. THOMAS. I am not going to starve under that Administration.

The CHAIRMAN. All right, thank you very much. We may have some other questions to submit to you in writing.

Mr. THOMAS. May I make one comment, Mr. Chairman?

The CHAIRMAN. Yes, but I am going to be late for a vote if it isn't very long.

Mr. THOMAS. For the record, I would just like to note that we paid $189 for that camera.

The CHAIRMAN. I am glad to know that. That isn't a bad price.

Mr. THOMAS. Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you.

The hearing record will remain open for 2 weeks so that members may submit additional questions and the committee may receive additional materials.

The committee is adjourned.

[Whereupon, at 1:08 p.m., the committee adjourned, to reconvene at the call of the Chair.]

APPENDIX I

QUALITY OF WORK LIFE SURVEY OF EQUAL EMPLOYMENT OPPORTUNITY COMMISSION EMPLOYEES: AN EXAMINATION

STAFF REPORT

to

THE SPECIAL COMMITTEE ON AGING

UNITED STATES SENATE

June 24, 1988

INTRODUCTION: BACKGROUND AND EVALUATION

In December, 1987, the Joint National Quality of Work (QWL) Committee of the U.S. Equal Employment Opportunity Commission (EEOC) conducted a survey of the views of EEOC employees towards working conditions at the Commission. A total of 3,243 questionnaires were distributed to all employees, and a total of 1,822 questionnaires were completed and returned for analysis (a 44 percent nonresponse rate).

The EEOC provided a copy of the QWL report analyzing the results of the survey to the Committee. This examination of the QWL report by staff of the Special Committee on Aging highlights some of the findings as well as some of the shortcomings of the survey. Specifically, this analysis examines the results of two of the eleven areas of study or dimensions that were the focus of the QWL survey: the Communications/Flow of Information Dimension and the Understanding Job Requirements Dimension. Results of the survey provide "an extremely important tool for identifying problem areas within the agency, as well as for distinguishing those areas where the agency is working successfully." [1]

[1] Memorandum of transmittal of the report to the Joint National Quality of Work Life Committee. p. 2.

However, the report, and especially the Overview, appears to place more emphasis on the positive findings--where they exist--and ignores or plays down negative findings from the survey. The report ignores the sometimes substantial proportion of individuals who are neither positive nor negative (by the report writers' definition) toward the questions posed. The writers of the report appear to take the position that if over 50 percent of the employees feel positive about an area that this implies the EEOC does not have to concern itself with improvement in that area. This ignores the fact that even in these areas a substantially large segment of the employees at EEOC do not feel positive about the agency's performance. In general, the report tends to paint a rosier picture than comes through from an analysis of the data. For example, a thorough examination of the tables points to at least one major finding that is hardly mentioned in the Overview and is buried in the last part of the report. The results of the survey show that on almost every question on almost every dimension EEOC non-supervisory employees feel much more unfavorable toward the Commission than do supervisory employees. In many cases, these differences are dramatic.

Also, while the study explored "eleven dimensions" or areas of inquiry relating to the quality of work life at EEOC, the study failed to explore one major area usually examined by other studies of working conditions of Federal employees--employee work load.[2] In the 68 questions asked of employees at EEOC not one question was asked about workload problems. The level of workload at EEOC should have been explored in a study that was obviously meant to be so thorough. The absence of any questions on workload is a major oversight of the study.

Nonetheless, despite any problems it has with the way the results of the survey were presented or other limitations in the questionnaire, it is important that studies like this are done to provide useful information to heads of agencies to help solve problems that already exist or help stave off problems from developing. It does not serve the agency, however, if negative results are glossed over or played down. The staff of the Committee has reexamined the results of the survey on two dimensions focused on by the QWL study: the Communication/Flow of Information Dimension and the Understanding Job Requirements Dimension. The results of this reanalysis is presented in the next two sections.

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[2] U.S. Merit Systems Protection Board. Federal Personnel Policies and Practices--Perspectives from the Workplace. A Report to the President and the Congress of the United States. December 16, 1987. Washington, Govt. Prnt. Off., 1987. 4-5. U.S. Office of Personnel Management. Federal Employee Attitudes, Phase 1: Baseline Survey 1979 Government-wide Report. Washington, Govt. Prnt. Off., September 1979. U.S. National Center for Productivity and Quality of Working Life. Employee Attitudes and Productivity, Differences Between the Public and Private Sector. U.S. Department of Commerce, National Technical Information Service, PB-293 475. Washington, U.S. National Center for Productivity and Quality of Working Life, February 1978. 11.

COMMUNICATIONS/FLOW OF INFORMATION DIMENSION

National Results

The QWL survey posed six questions to measure whether employees felt that there was ample opportunity for communications and that information necessary for their jobs was available.[3] Graph 1 displays the average percentage for all six questions measuring the Communications/Flow of Information dimension for all employees at EEOC.[4] As is readily apparent, on average, slightly over 56 percent of the employees at EEOC do NOT have a favorable view of communications and the flow of information at the Commission. Graphs 2-7 display the results for the individual questions making up the Communication/Flow of Information Dimension. Over 60 percent of the employees answering the question about the effectiveness of in-office communications believed that it was only somewhat, seldom or never effective. Similarly, over 68 percent felt this way about the effectiveness of in-agency communications. Fifty-six percent believed that communications between work groups and other parts of the office were not effective (either ineffective or neither). And 64.5 percent believed that the flow of information between work groups and the Commission as a whole were not effective. And while not a majority of respondents, over 46 percent believed that their work group had a chance to air their views only sometimes, seldom or almost never. Similarly, over TWO FIFTHS (41.6 percent) of the respondents believed that they either did not have adequate information to do their job or were uncertain whether they had adequate information.

Based on these data, the QWL report is correct in identifying a problem at the EEOC, as perceived by its own employees, in communicating with, as well as listening and getting information to its employees. The EEOC should focus on this, as well as the other problems brought out by the QWL survey.

---

[3] The six questions were the following:

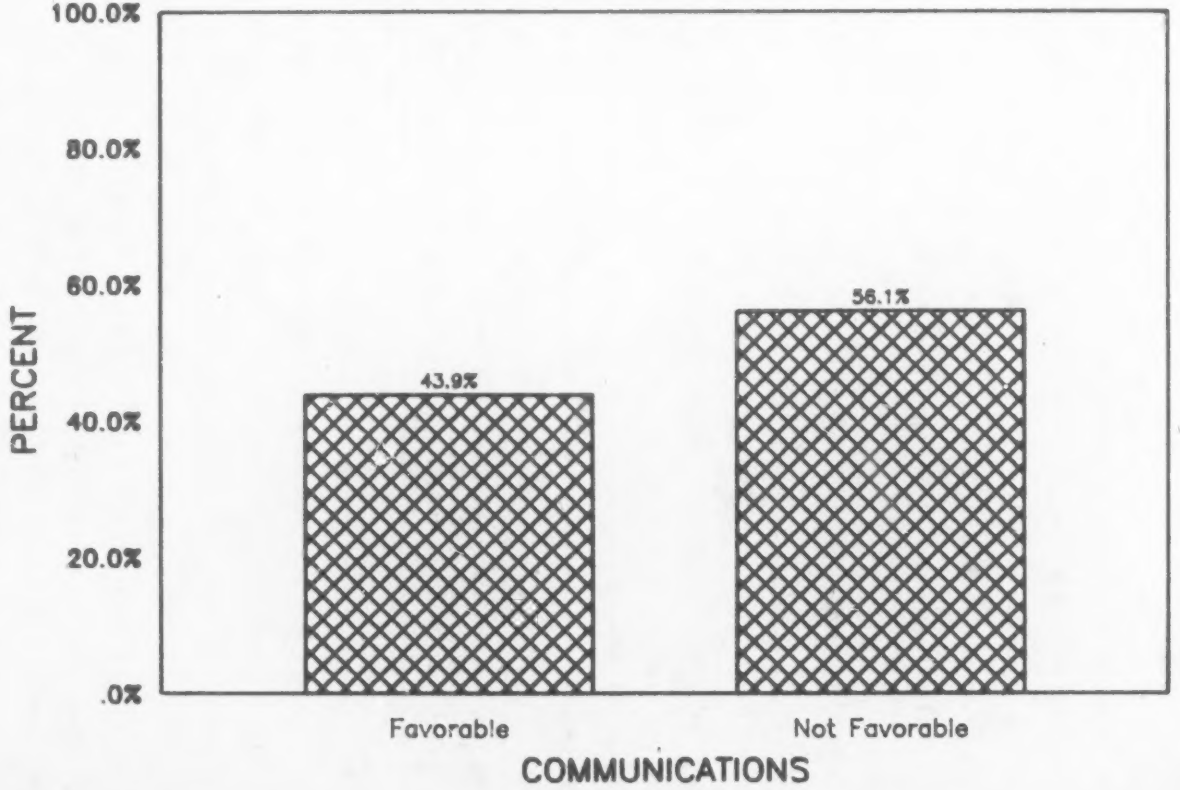
7. Is information about what is happening in the office effectively communicated to employees?
8. Is information about what is happening in the larger agency effectively communicated to employees?
17. Is the information flow between your work group and other parts of the office effective or ineffective?
18. Is the information flow between your work group and other parts of the Commission effective or ineffective?
30. When information is given to people in your work group, do they have a chance to present their views about matters that concern them?
38. Do you have the information necessary to do your job well?

All questions had five point scales of possible responses.

[4] The percentage values corresponding to the graphs shown in the text appear in the Appendix. Table 1 of the Appendix corresponds to Graph 1 of the text. Table 2 corresponds to Graph 2. And so on.

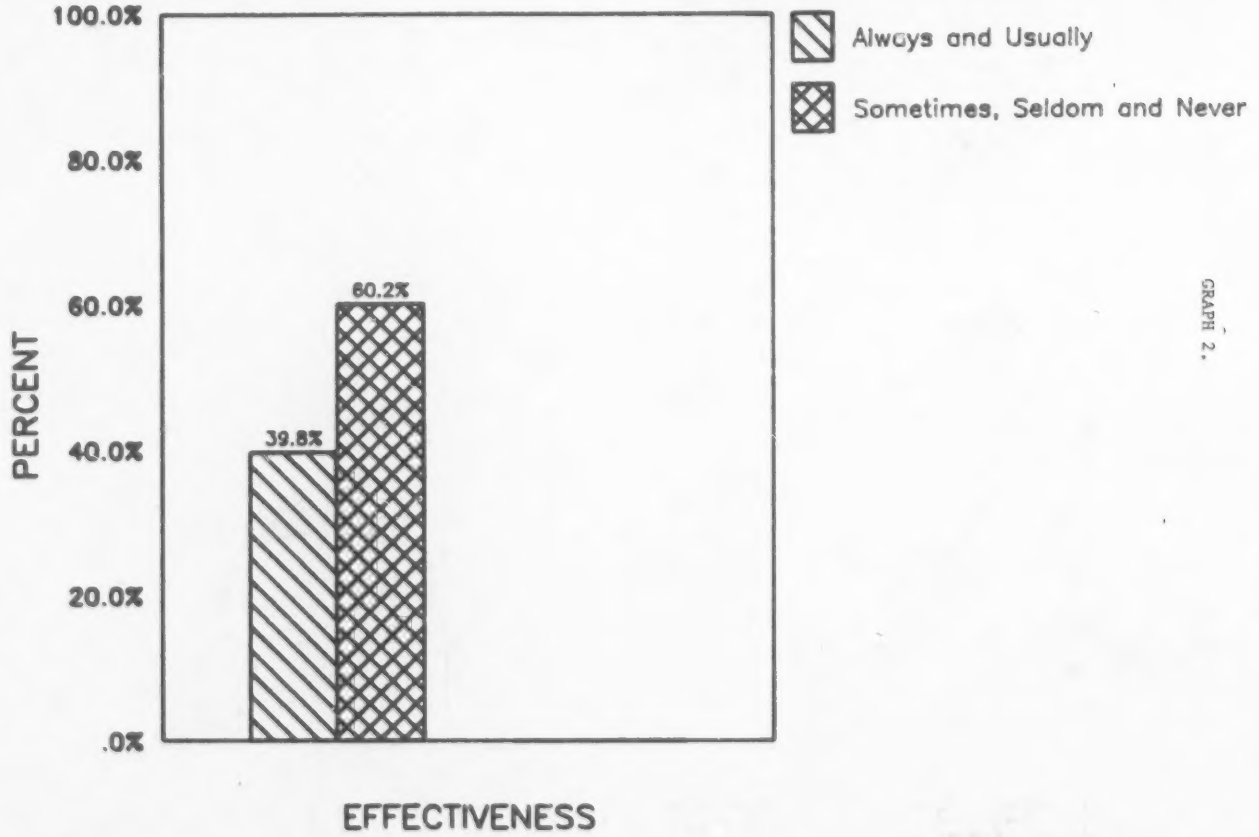
COMMUNICATIONS/FLOW OF INFO. DIMENSION

AVERAGE NATIONAL PERCENTAGES



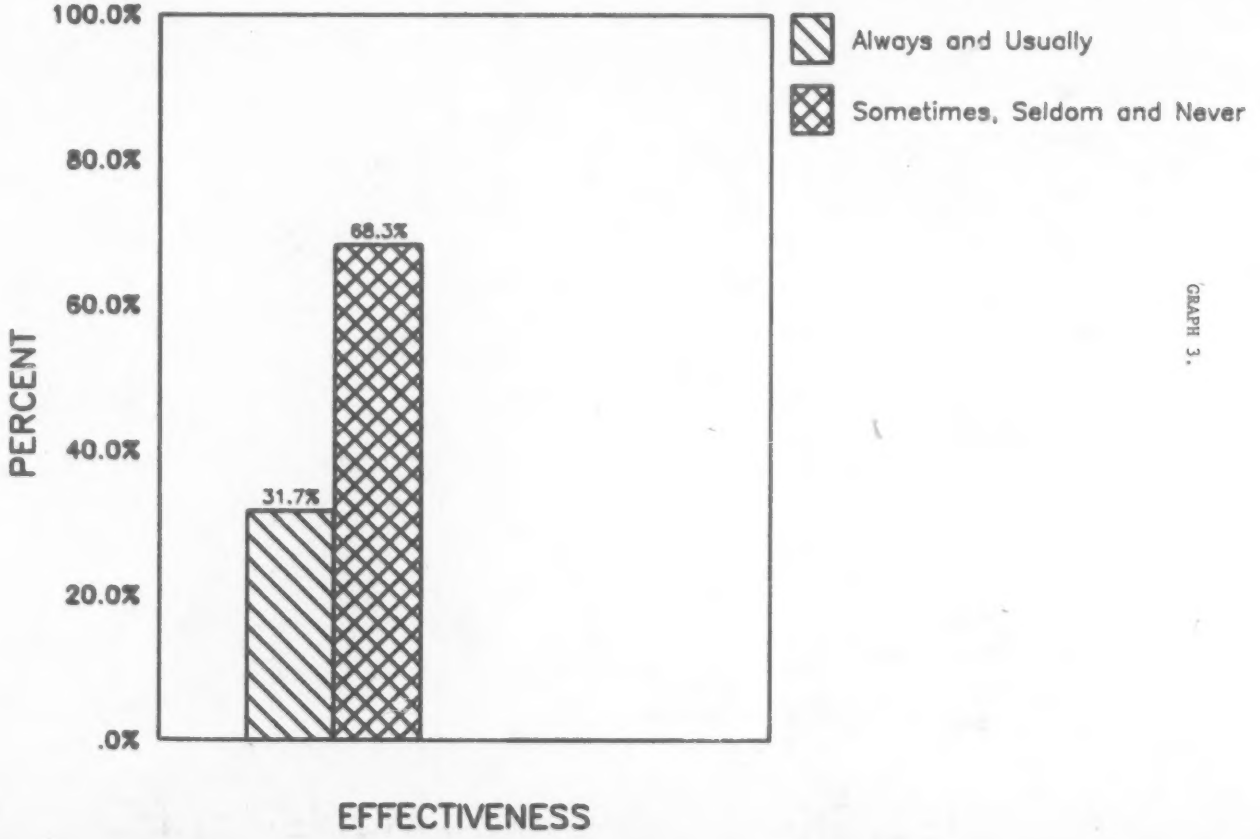
GRAPH 1.

IS IN-OFFICE COMMUNICATIONS EFFECTIVE?



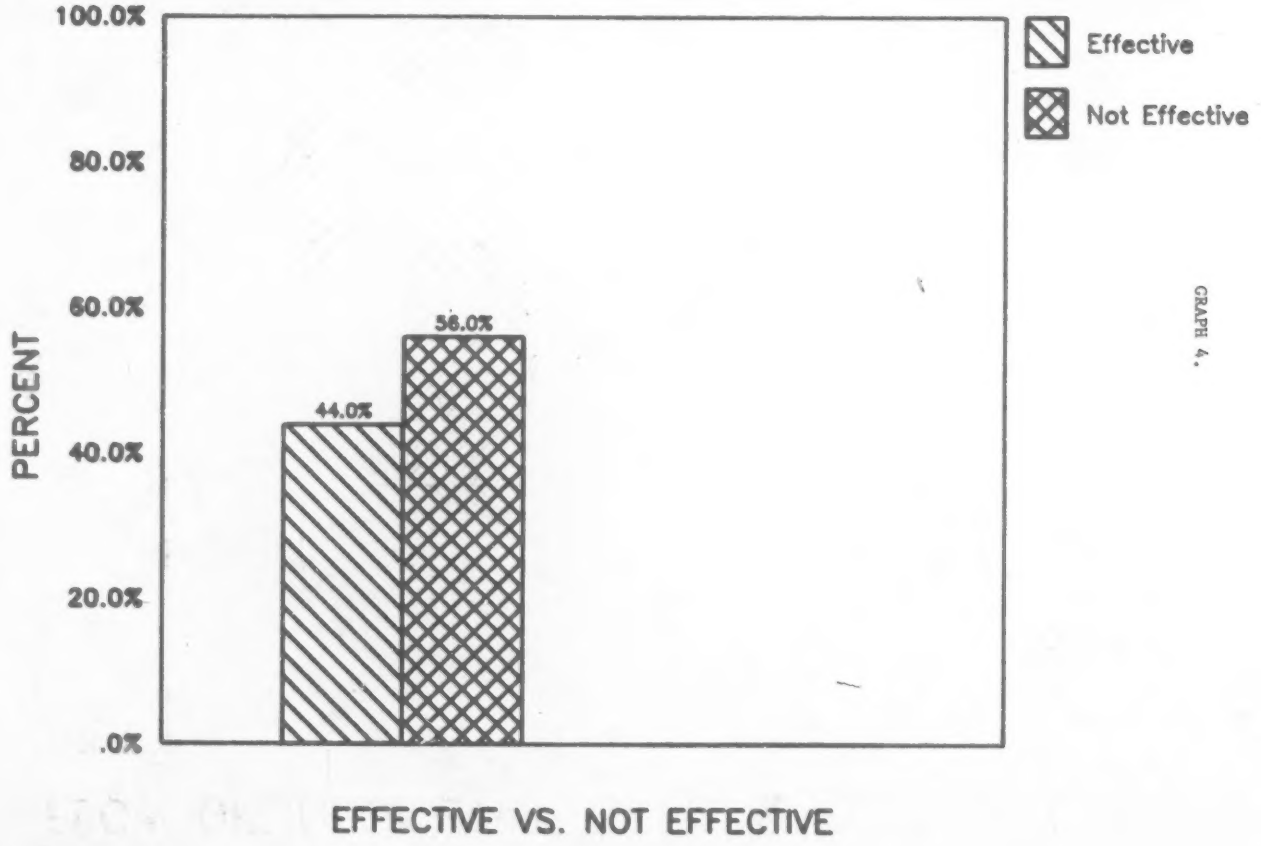
GRAPH 2.

IS IN-AGENCY COMMUNICATIONS EFFECTIVE?

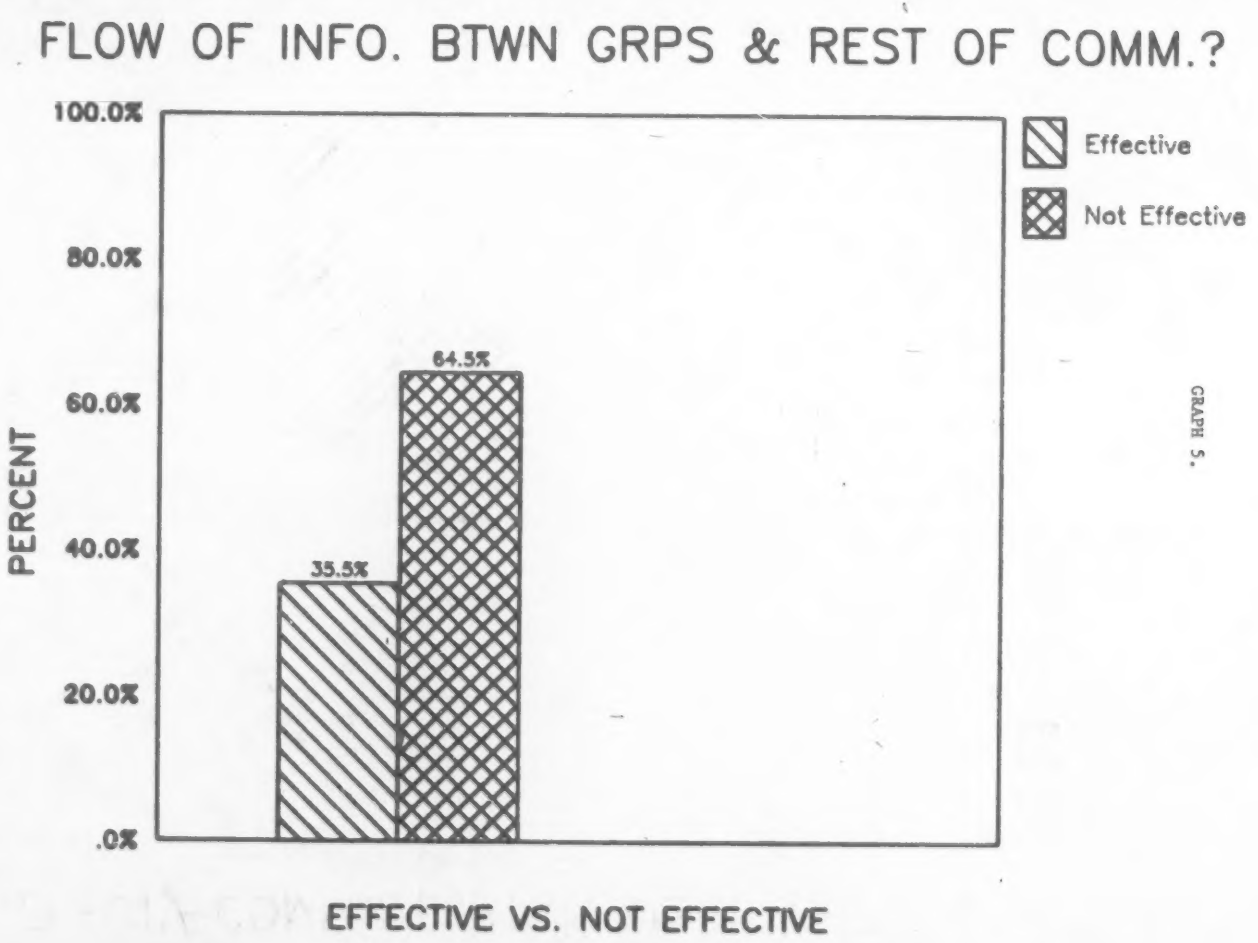


GRAPH 3.

EFFCTV COMMUN. BTWN WORK GRPS & OFFICES?



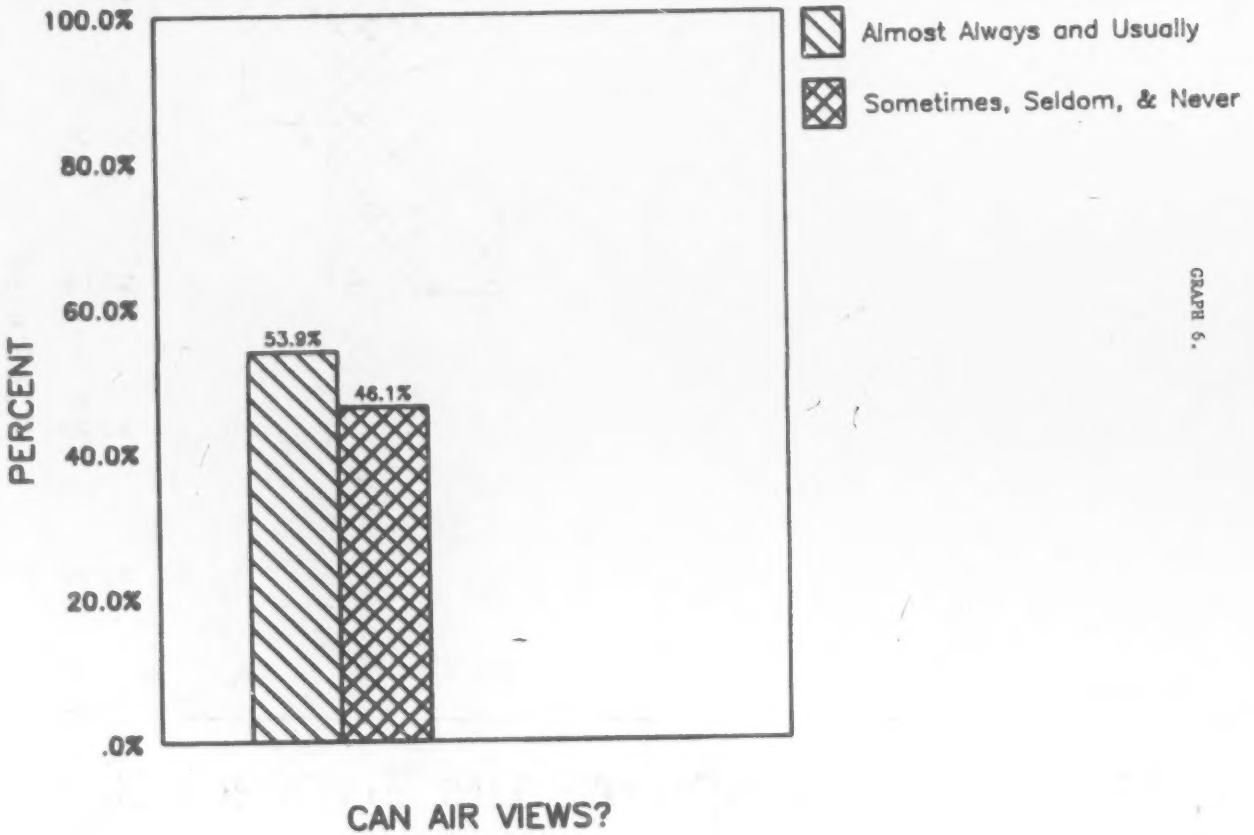
GRAPH 4.


FLOW OF INFO. BTWN GRPS & REST OF COMM.?
100.0%
80.0%
60.0%
40.0%
20.0%
.0%
PERCENT
35.5%
64.5%
Effective
Not Effective
EFFECTIVE VS. NOT EFFECTIVE

GRAPH 5.

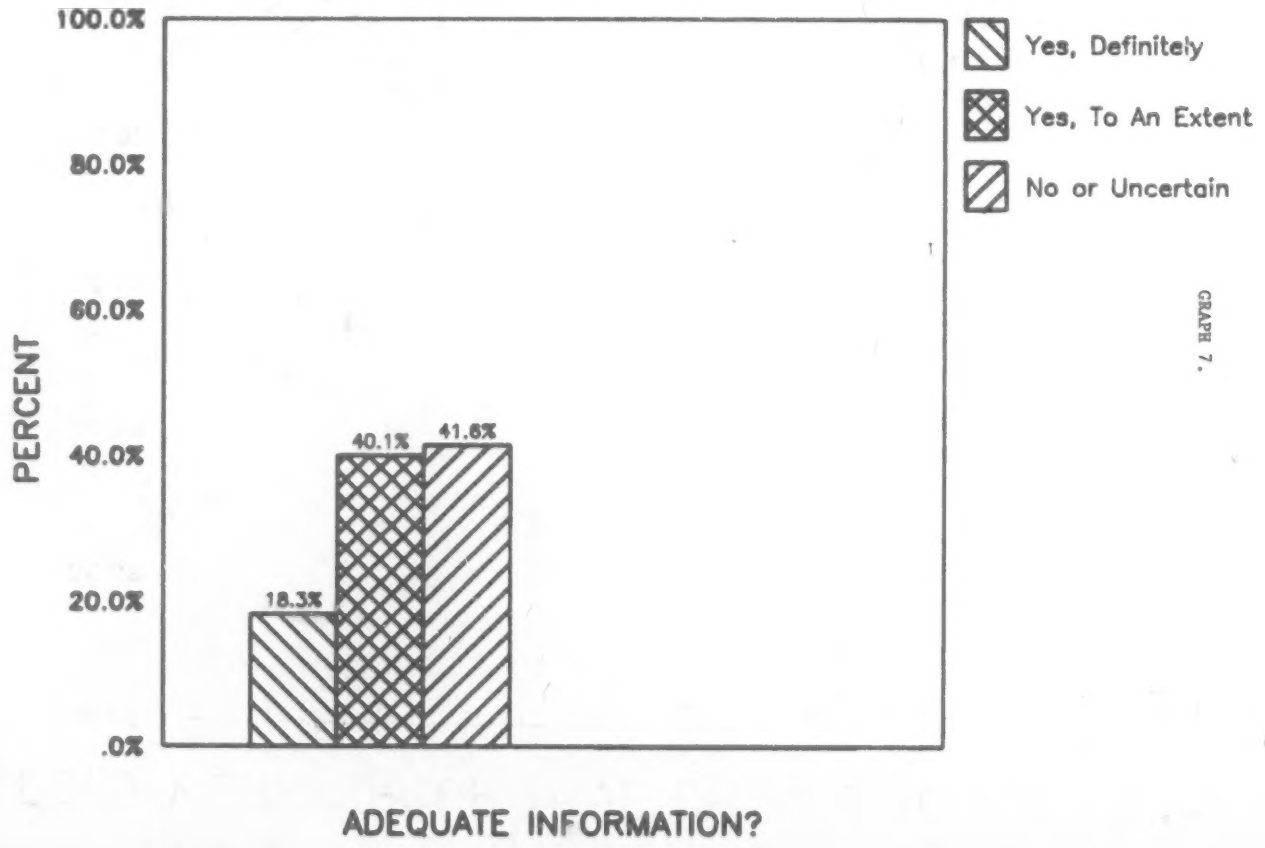
95-656 0 - 89 - 10

DOES WORK GROUP HAVE CHANCE TO AIR VIEWS?



GRAPH 6.

HAVE ADEQUATE INFORMATION TO DO JOB WELL?



GRAPH 7.

District Office Results

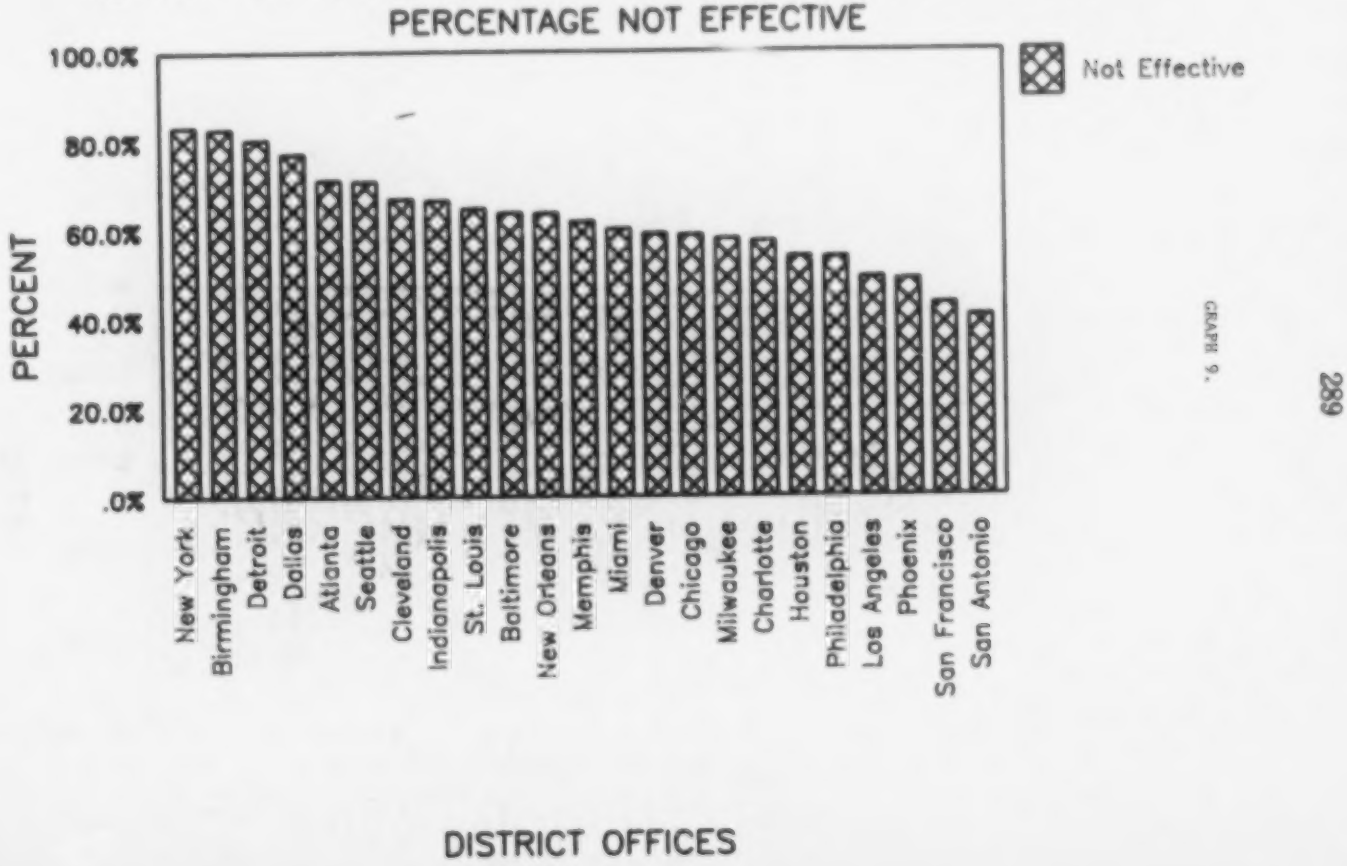
Graph 8 displays the average percentage of persons in each District office who were "not favorable" on the Communications/Flow of Information Dimension. The graph shows that of the 23 District offices, 18 had a "not favorable" percentage over 50 percent. In other words, over 50 percent of the employees in almost 80 percent of the field offices expressed a non-supportive view of the way information is communicated in the EEOC. Graphs 9-14 show the percentage of employees in each District office who provided non-favorable responses to the six questions making up the Communications/Flow of Information Dimension. In 19 of the 23 District offices, over 50 percent of the responding employees believed that in-office communications was only "sometimes, seldom or never effective." In all 23 District offices, over 55 percent of the responding employees believed this way about the effectiveness of in-agency communications. Graph 11 shows that in 18 of the 23 District offices over 50 percent of the employees believed that flow of information between work groups and other parts of the office was not effective. And Graph 12 shows that in 22 District offices over 50 percent of the employees believed this way about the flow of information between the work groups and the rest of the Commission. While in only six District offices did over 50 percent of the employees feel that they had a chance to air their views only "sometimes, seldom or never," this view was held by 40 to 50 percent of the employees in another 15 of the District offices. Only in the area of having adequate information to do the job did the District office employees not have a negative view of the flow of information. And even in this case, a substantial number of employees (data unavailable) gave a response that the information necessary to do their jobs was adequate "to an extent." Its unclear what this response implies about the ability of the Commission to get enough information to its employees so that they can perform their jobs.

Overall, this brief analysis of the EEOC survey data strongly suggests that there is a major problem within the Commission in communicating to its employees. The individual District office graphs underscores this problem even more dramatically.

GRAPH 8.

COMMUNICATIONS/FLOW OF INFO. DIMENSION
AVERAGE "NOT FAVORABLE" DISTRICT OFFICE PERCENTAGES
Not Favorable
PERCENT
100.0%
80.0%
60.0%
40.0%
20.0%
.0%
Birmingham
Dallas
Atlanta
Detroit
New York
Cleveland
Denver
Baltimore
Indianapolis
Seattle
New Orleans
St. Louis
Chicago
Philadelphia
Memphis
Miami
Phoenix
Charlotte
Los Angeles
Houston
San Antonio
Milwaukee
San Francisco
DISTRICT OFFICES

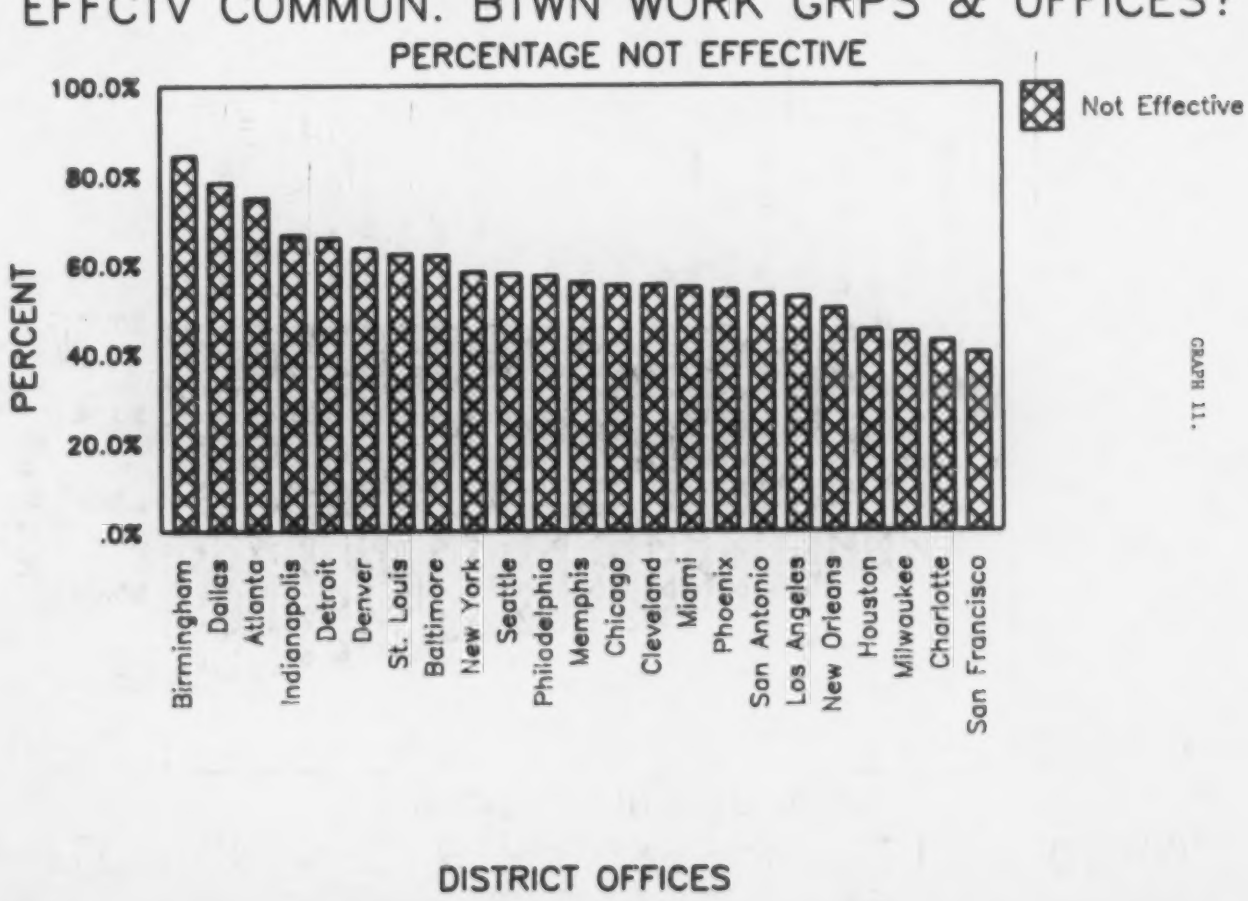
IS IN-OFFICE COMMUNICATIONS EFFECTIVE?



CRAFR 9.

GRAPH 10.

IS IN-AGENCY COMMUNICATIONS EFFECTIVE?
PERCENTAGE NOT EFFECTIVE
Not Effective
PERCENT
100.0%
80.0%
60.0%
40.0%
20.0%
.0%
Birmingham
Detroit
Atlanta
Dallas
Cleveland
Denver
Charlotte
Seattle
St. Louis
Indianapolis
Baltimore
Chicago
Memphis
Philadelphia
Miami
Houston
Los Angeles
Phoenix
New Orleans
San Francisco
New York
Milwaukee
San Antonio
DISTRICT OFFICES


EFFCTV COMMUN. BTWN WORK GRPS & OFFICES?
PERCENTAGE NOT EFFECTIVE
Not Effective
PERCENT
100.0%
80.0%
60.0%
40.0%
20.0%
.0%
Birmingham
Dallas
Atlanta
Indianapolis
Detroit
Denver
St. Louis
Baltimore
New York
Seattle
Philadelphia
Memphis
Chicago
Cleveland
Miami
Phoenix
San Antonio
Los Angeles
New Orleans
Houston
Milwaukee
Charlotte
San Francisco
DISTRICT OFFICES

GRAPH 11.

GRAPH 12.

FLOW OF INFO. BTWN GRPS & REST OF COMM.?
PERCENTAGE NOT EFFECTIVE
Not Effective
PERCENT
100.0%
80.0%
60.0%
40.0%
20.0%
.0%
Dallas
Birmingham
Atlanta
Detroit
Baltimore
Cleveland
New York
Denver
Philadelphia
Charlotte
Phoenix
Seattle
Chicago
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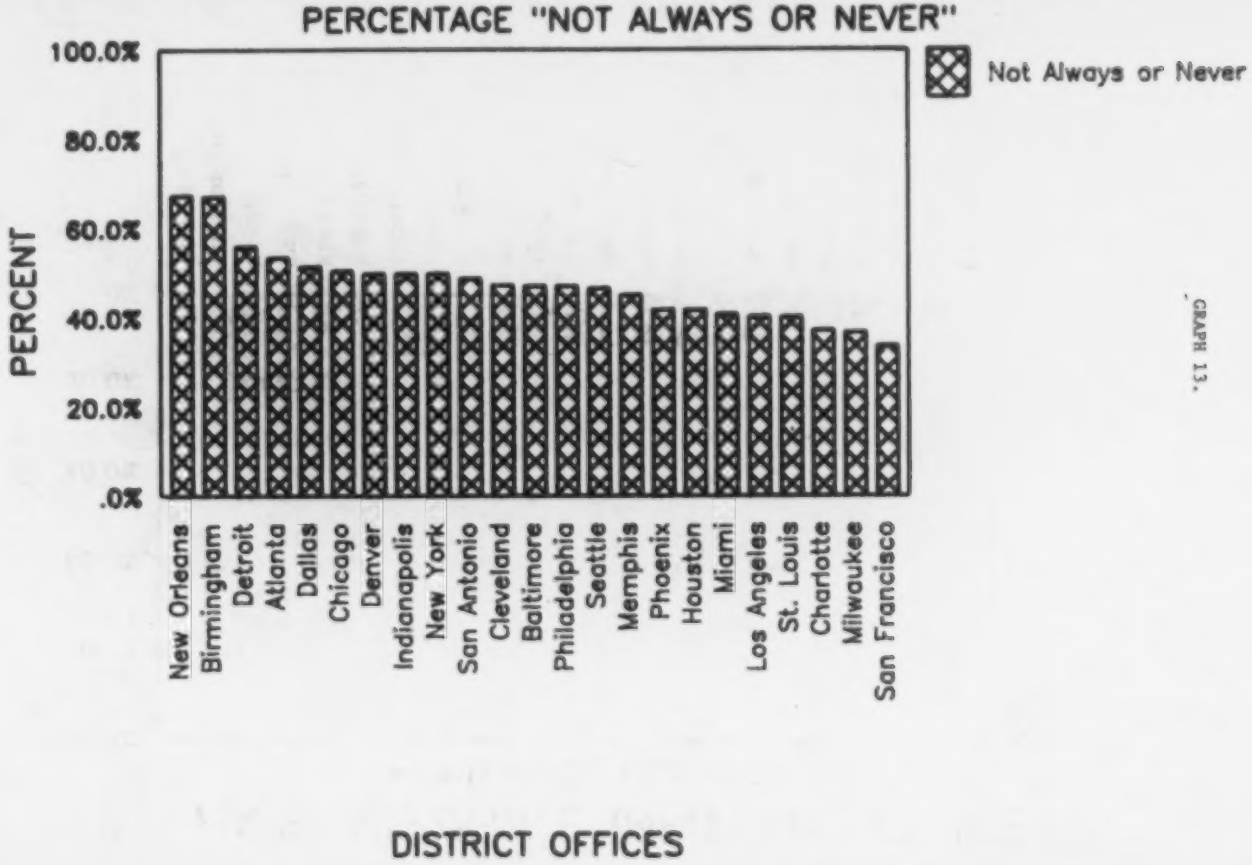
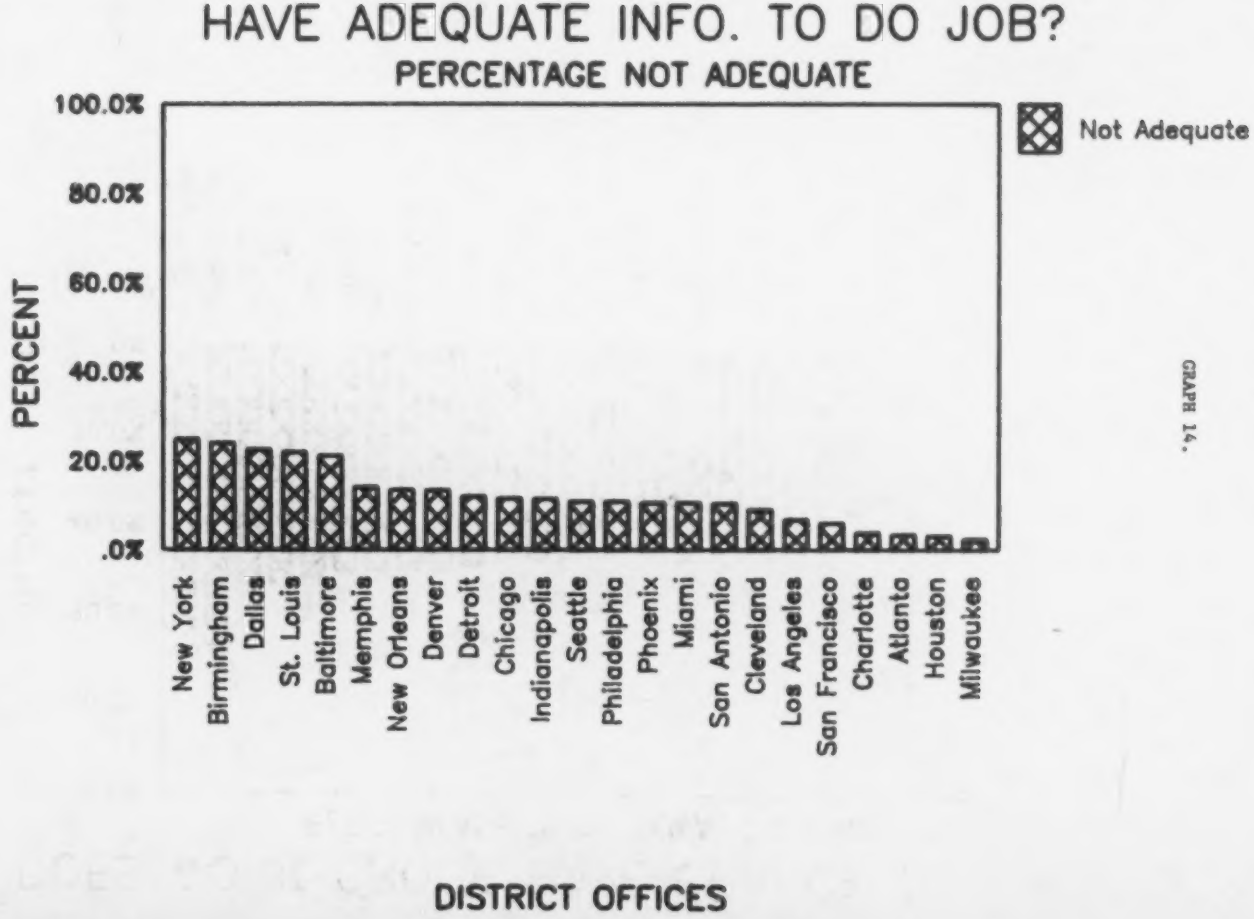
Houston
DISTRICT OFFICES

DOES WORK GROUP HAVE CHANCE TO AIR VIEWS?



GRAPH 13.


HAVE ADEQUATE INFO. TO DO JOB?
PERCENTAGE NOT ADEQUATE
100.0%
80.0%
60.0%
40.0%
20.0%
.0%
PERCENT
Not Adequate
New York
Birmingham
Dallas
St. Louis
Baltimore
Memphis
New Orleans
Denver
Detroit
Chicago
Indianapolis
Seattle
Philadelphia
Phoenix
Miami
San Antonio
Cleveland
Los Angeles
San Francisco
Charlotte
Atlanta
Houston
Milwaukee
DISTRICT OFFICES

GRAPH 14.

UNDERSTANDING JOB REQUIREMENTS DIMENSION

National Results

The QWL survey posed three questions to measure how well employees believed that they understood job requirements.[5] Graph 15 displays the average percentage of the three questions measuring the dimension for all employees at EEOC. On average almost fifty percent (49.2%) of the employees at EEOC did not believe that job requirements are well specified. Graphs 16-18 display the results for the individual questions making up the Understanding Job Requirements Dimension. Approximately 40 percent of the employees held that the work objectives were not well defined. Almost 60 percent (57.5%) of the employees believed that formal training was not adequate. While employees felt a bit better about the on-the-job training they receive, still almost half (49.9%) believed that on-the-job training was not effective.

Based on these data, it would appear that the EEOC definitely has a problem in providing adequate formal and on-the-job training for its employees. The EEOC should also be concerned over the sizeable, albeit less than 50 percent, number of employees who believed that work objectives were not clear and specific.

District Office Results

Graph 19 shows the average percentage of persons in each District office who were "not favorable" on the Understanding Job Requirements Dimension. The graph shows that of the 23 District offices, 12 had a "not favorable" percentage over 50 percent. Only 2 District offices, Phoenix and San Francisco, had favorable ratings of over 60 percent. Whereas, 6 District offices (Detroit, Birmingham, Denver, New York, Dallas and Seattle) had unfavorable ratings of 60 or more for the Understanding Job Requirements Dimension. It is alarming that on average one out of every two employees did not feel that he or she adequately understood their job requirements.

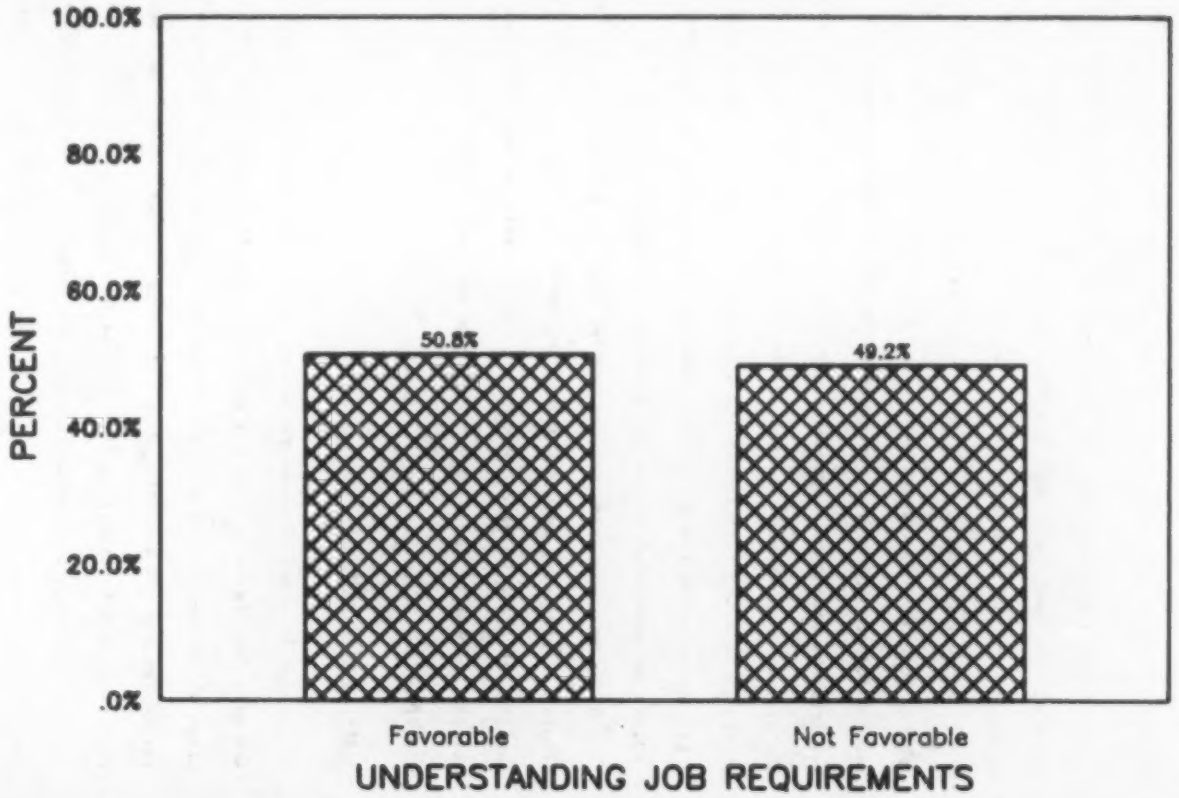
---

[5] The three questions were the following:

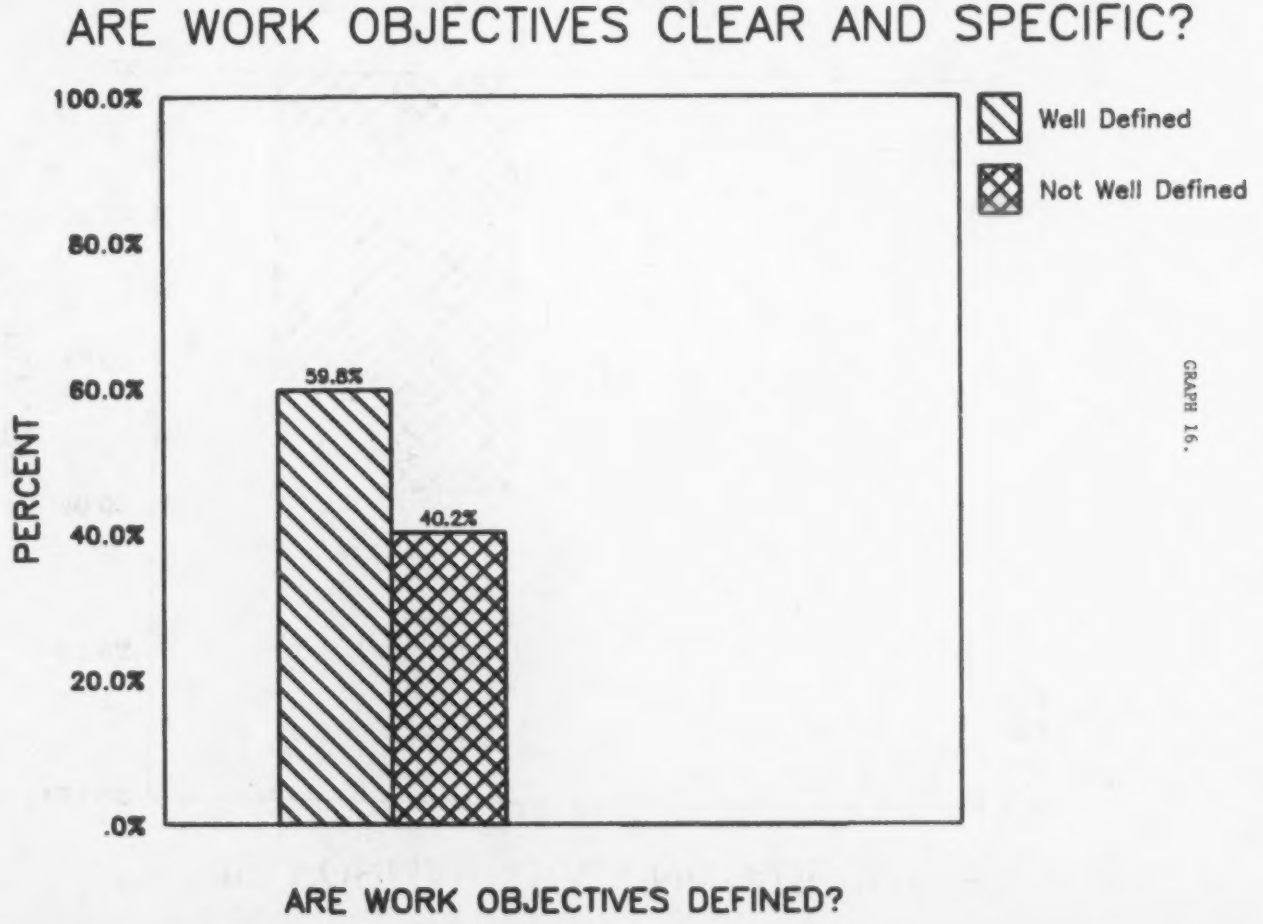
1. Are the work objectives of your group clearly and specifically defined?
19. Is the formal training provided to employees for new work procedures, new job assignments, etc., adequate or inadequate?
21. Is on-the-job training given to new employees in your work group effective or ineffective?

UNDERSTANDING JOB REQUIREMENTS DIMENSION

AVERAGE NATIONAL PERCENTAGES

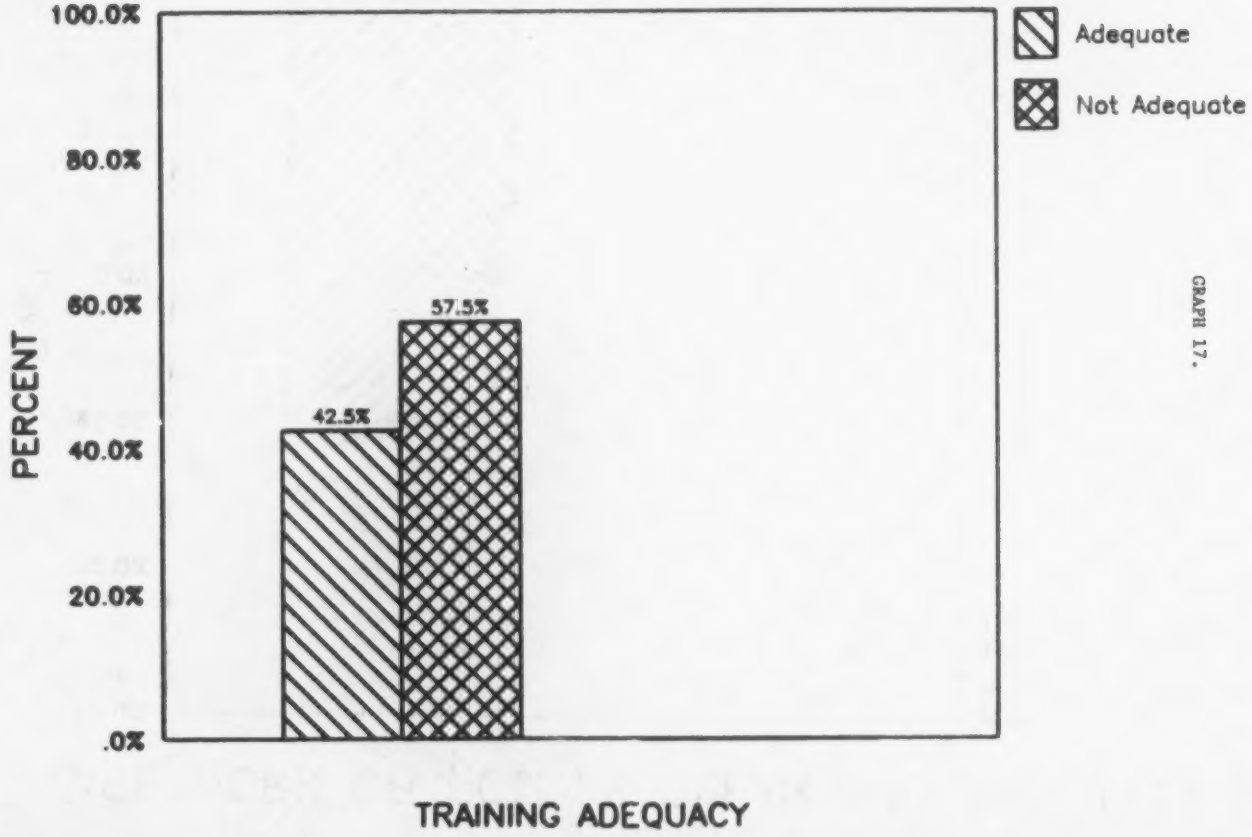


GRAPH 15.


ARE WORK OBJECTIVES CLEAR AND SPECIFIC?
100.0%
80.0%
60.0%
40.0%
20.0%
.0%
PERCENT
59.8%
40.2%
Well Defined
Not Well Defined
ARE WORK OBJECTIVES DEFINED?

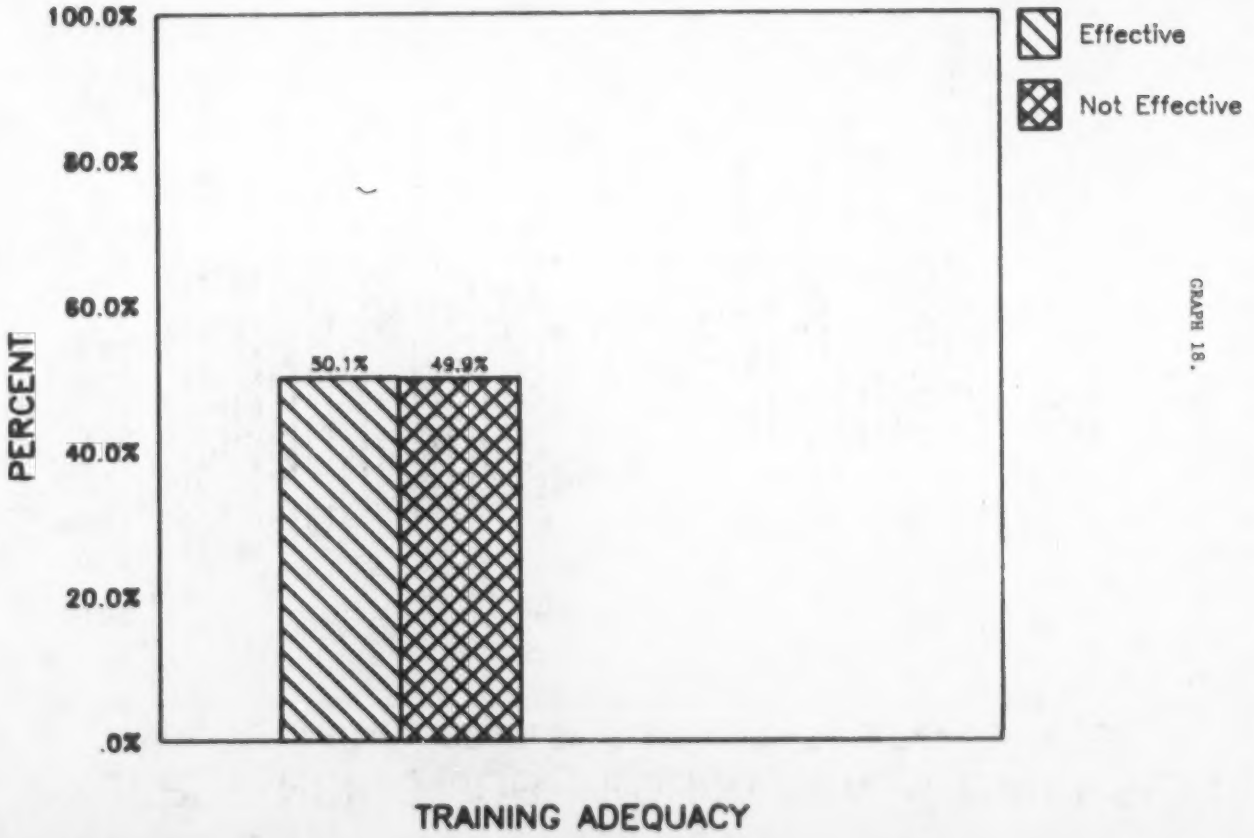
GRAPH 16.

IS FORMAL TRAINING ADEQUATE?



GRAPH 17.

IS ON-THE-JOB TRAINING EFFECTIVE?



GRAPH 18.

UNDERSTANDING JOB REQUIREMENTS DIMENSION

AVERAGE "NOT FAVORABLE" DISTRICT OFFICE PERCENTAGES

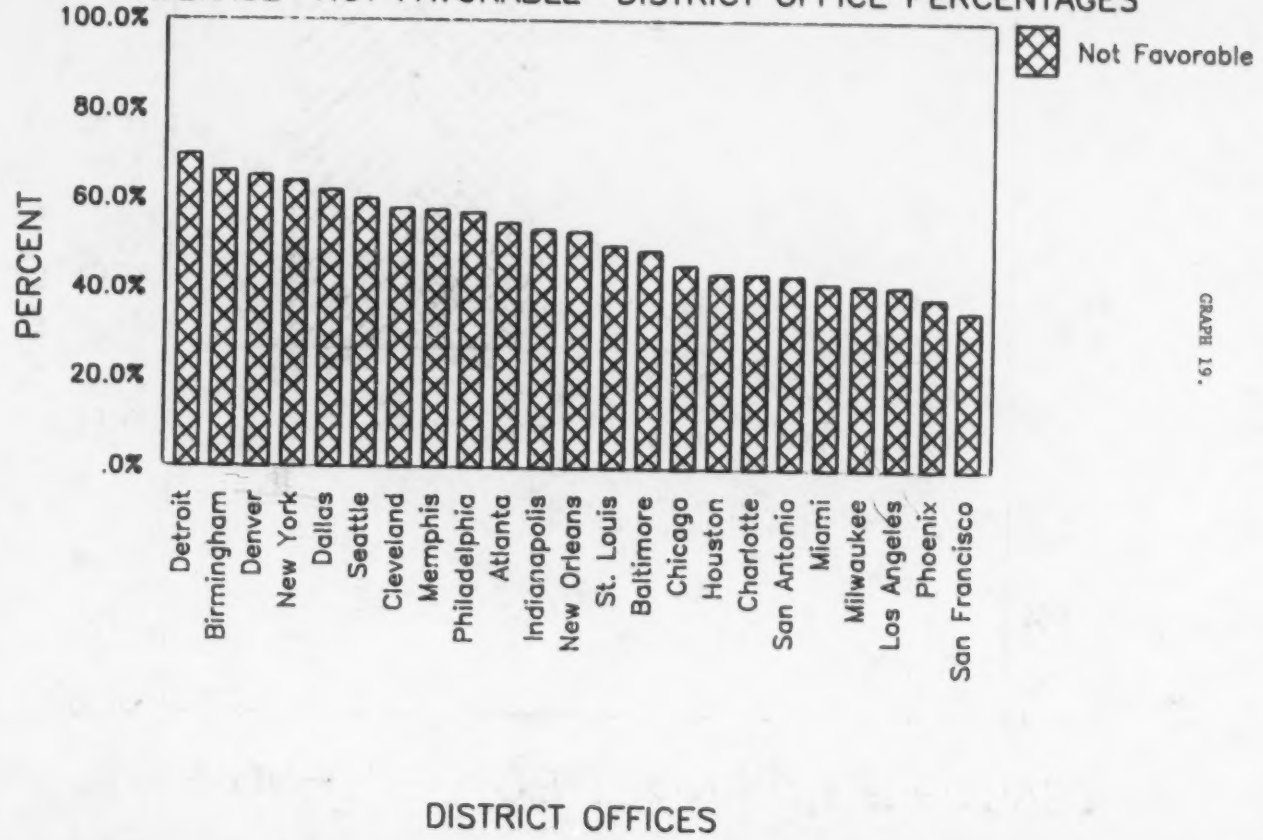


CHART 19.

Graph 20 shows the average percentage of persons in each District office who believed that the work objectives were not well defined. Six District offices (Birmingham, New York, Detroit, Dallas, Denver and Memphis) had a "not well defined" percentage of over 50 percent. In thirteen of the District offices at least forty percent of the employees believed that work objectives were "not well defined."

When one examines the District offices on the question on whether formal training for employees is adequate, only one District office (San Francisco) showed that more than 60 percent of its employees believed that formal training was adequate. In 22 out of the 23 District office more than forty percent of the employees believed that formal training was "not adequate." In approximately 70 percent of the District offices more than fifty percent of the employees believed that formal job training was inadequate.

Graph 22 shows that in nineteen of the twenty-three district offices forty percent or more of the employees believed that on-the-job training is "not effective." In almost 61% of the district offices, more than 50 percent of the employees felt that on-the-job training is inadequate. In six district offices (Philadelphia, Detroit, Atlanta, Birmingham, Seattle and Dallas), sixty percent or more of the employees considered on-the-job training to be inadequate.

CONCLUSIONS

This brief review of information obtained from the QWL survey of employees at EEOC points to the fact that the Commission needs to take measures to better communicate with its employees and to assist its employees to better understand what it is they are supposed to be doing. Clearly defining the goals of the Commission might be a start.

It should be noted that these problems appear more acute at EEOC than at other agencies. For example, in a survey of 16,651 Federal employees throughout the 22 largest Federal agencies conducted by the U.S. Merit Systems Protection Board, it was found that 63 percent of all employees in the survey believed that there was "effective two-way communication between my supervisor and me," and 78 percent felt that their supervisor encourgages them to "offer ideas and suggestions to improve productivity and/or quality of work." [6] Similarly, in a 1979 survey of Federal employees conducted by the Office of

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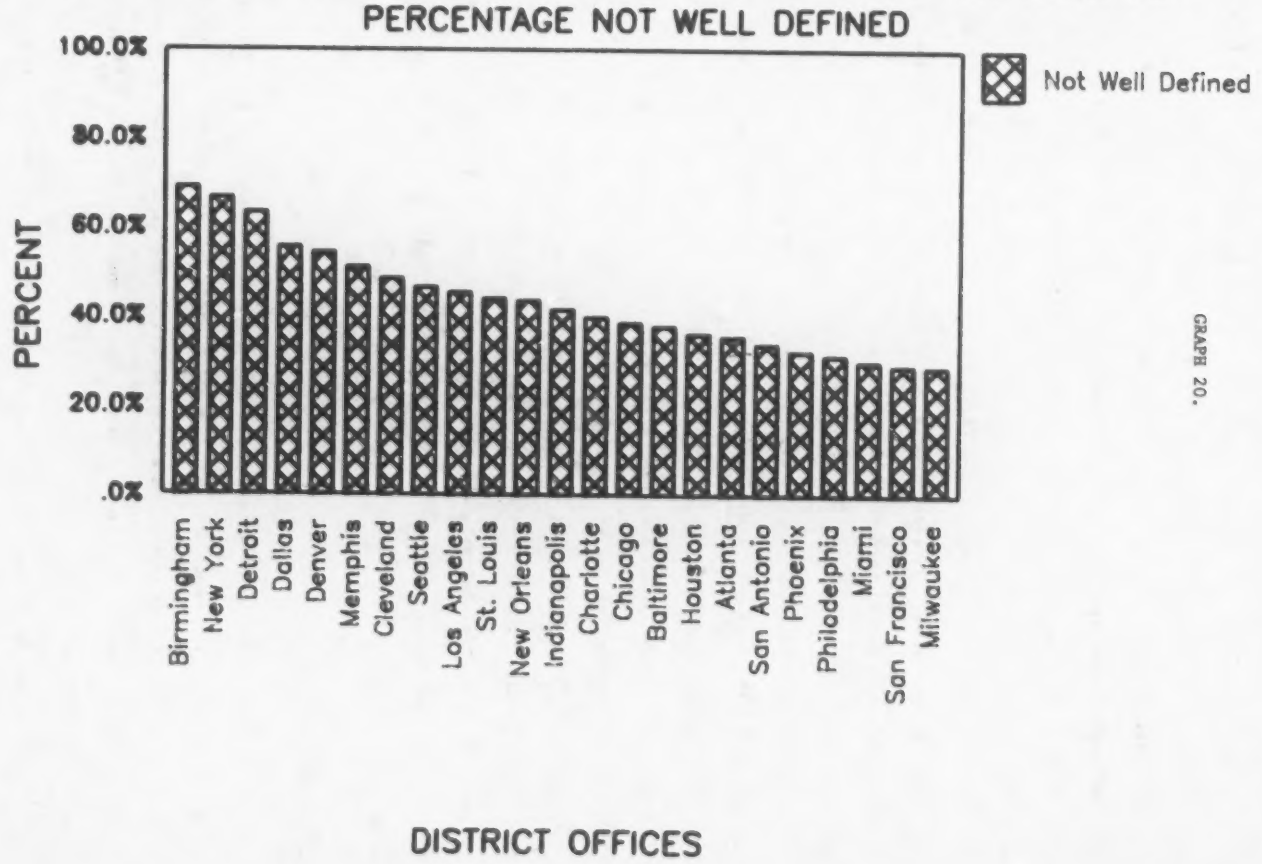
[6] U.S. Merit Systems Protection Board, Federal Personnel Policies, p. 4 of the questionnaire in the appendix of the report. The percentages were supplied by Jamie Carlyle.

ARE WORK OBJECTIVES CLEAR AND SPECIFIC?



GRAPH 20.

GRAPH 21.

IS FORMAL TRAINING ADEQUATE?
PERCENTAGE NOT ADEQUATE
Not Adequate
PERCENT
100.0%
80.0%
60.0%
40.0%
20.0%
.0%
Denver
Detroit
Seattle
Dallas
Memphis
Cleveland
Indianapolis
New York
Birmingham
New Orleans
Atlanta
Baltimore
Houston
Miami
San Antonio
Charlotte
Chicago
St. Louis
Milwaukee
Phoenix
Philadelphia
Los Angeles
San Francisco
DISTRICT OFFICES

GRAPH 22.

IS ON-THE-JOB TRAINING EFFECTIVE?
PERCENTAGE NOT EFFECTIVE
Not Effective
PERCENT
100.0%
80.0%
60.0%
40.0%
20.0%
0%
Philadelphia
Detroit
Atlanta
Birmingham
Seattle
Dallas
St. Louis
Denver
New York
Cleveland
Memphis
New Orleans
Indianapolis
Milwaukee
Chicago
Baltimore
San Antonio
Charlotte
San Francisco
Miami
Houston
Phoenix
Los Angeles
DISTRICT OFFICES

Personnel Management, it was found that 77 percent of the employees surveyed believed that they knew "exactly what is expected of me" on their jobs. Also, 62 percent felt that the information they got through formal channels helped them to perform their job effectively, and 75 percent believed that their "job duties are clearly defined by my supervisor." [7] Thus, it would appear that the Commission may be suffering difficulties not shared by other agencies.

The EEOC should take seriously the results of its own survey and deal with the problems pointed out to them by their employees. The Commission is charged with the obligation of preventing discrimination in the job market, but if its own employees do not have enough information to do their job or, even worse, do not understand clearly what their job is, how can the Commission perform its duties?

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[7] U.S. Office of Personnel Management, Federal Employee Attitudes, p. 4-5, 11 of the Federal Employee Attitude Survey Scales.

APPENDIX A: COMMUNICATION/FLOW OF INFORMATION DIMENSION, NATIONAL TABLES

TABLE 1. COMMUNICATIONS/FLOW OF INFORMATION DIMENSION: AVERAGE NATIONAL PERCENTAGES

Favorable	43.9%
Not Favorable	56.1%

TABLE 2. IS IN-OFFICE COMMUNICATIONS EFFECTIVE?

	Number	Percent
Always and Usually	721	39.8%
Sometimes, Seldom and	1,090	60.2%
Total	1,811	100.0%

TABLE 3. IS IN-AGENCY COMMUNICATIONS EFFECTIVE?

	Number	Percent
Always and Usually	570	31.7%
Sometimes, Seldom and	1,229	68.3%
Total	1,799	100.0%

TABLE 4. EFFECTIVE COMMUNICATIONS BETWEEN WORK GROUPS AND OFFICES?

	Number	Percent
Effective	793	44.0%
Not Effective	1,011	56.0%
Total	1,804	100.0%

TABLE 5. FLOW OF INFORMATION BETWEEN GROUPS & REST OF COMMISSION?

	Number	Percent
Effective	627	35.5%
Not Effective	1,140	64.5%
Total	1,767	100.0%

TABLE 6. DOES WORK GROUP HAVE CHANCE TO AIR VIEWS?

	Number	Percent
Almost Always and Usually	970	53.9%
Sometimes, Seldom, and Never	831	46.1%
Total	1,801	100.0%

TABLE 7. DO YOU HAVE ADEQUATE INFORMATION TO DO JOB WELL?

	Number	Percent
Yes, Definitely	331	18.3%
Yes, To An Extent	724	40.1%
No or Uncertain	750	41.6%
Total	1,805	100.0%

APPENDIX B: COMMUNICATION/FLOW OF INFORMATION DIMENSION, DISTRICT OFFICE TABLES

TABLE 8. COMMUNICATIONS/FLOW OF INFORMATION DIMENSION: AVERAGE DISTRICT OFFICE PERCENTAGES

District Office	Favorable	Not Favorable
Birmingham	23.6%	76.4%
Dallas	28.4%	71.7%
Atlanta	30.4%	69.7%
Detroit	31.7%	68.3%
New York	36.1%	63.9%
Cleveland	38.2%	61.9%
Denver	38.6%	61.4%
Baltimore	38.9%	61.1%
Indianapolis	39.7%	60.3%
Seattle	40.4%	59.6%
New Orleans	40.8%	59.2%
St. Louis	41.6%	58.4%
Chicago	41.8%	58.2%
Philadelphia	44.0%	56.0%
Memphis	44.6%	55.4%
Miami	46.6%	53.4%
Phoenix	47.1%	52.9%
Charlotte	49.1%	50.9%
Los Angeles	50.0%	50.0%
Houston	52.2%	47.8%
San Antonio	53.9%	46.1%
Milwaukee	54.4%	45.6%
San Francisco	56.4%	43.6%

TABLE 9. IS IN-OFFICE COMMUNICATIONS EFFECTIVE? (Percentages)

District Office	Always or Usually	Sometimes, Seldom, Never
New York	16.7	83.3
Birmingham	17.2	82.8
Detroit	19.5	80.5
Dallas	22.7	77.3
Atlanta	28.6	71.4
Seattle	28.9	71.1
Cleveland	32.9	67.1
Indianapolis	33.3	66.7
St. Louis	35.1	64.9
Baltimore	36.1	63.9
New Orleans	36.2	63.8
Memphis	38.1	61.9
Miami	39.8	60.2
Denver	40.9	59.1
Chicago	41.2	58.8
Milwaukee	42.1	57.9
Charlotte	42.7	57.3
Houston	46.2	53.8
Philadelphia	46.3	53.7
Los Angeles	50.9	49.1
Phoenix	51.4	48.6
San Francisco	56.9	43.1
San Antonio	59.6	40.4

TABLE 10. IS IN-AGENCY COMMUNICATIONS EFFECTIVE? (Percentages)

District Office	Always or Usually	Sometimes, Seldom, Never
Birmingham	12.1	87.9
Detroit	12.2	87.8
Atlanta	14.3	85.7
Dallas	16.5	83.5
Cleveland	23.7	76.3
Denver	27.3	72.7
Charlotte	28.0	72.0
Seattle	28.9	71.1
St. Louis	29.9	70.1
Indianapolis	30.0	70.0
Baltimore	30.6	69.4
Chicago	30.6	69.4
Memphis	33.3	66.7
Philadelphia	33.3	66.7
Miami	36.6	63.4
Houston	37.4	62.6
Los Angeles	38.6	61.4
Phoenix	39.2	60.8
New Orleans	40.0	60.0
San Francisco	40.0	60.0
New York	41.7	58.3
Milwaukee	42.1	57.9
San Antonio	44.7	55.3

TABLE 11. EFFECTIVE COMMUNICATION BETWEEN WORK GROUPS & OFFICE?
(Percentages)

District Office	Effective	Not Effective
Birmingham	15.5	84.5
Dallas	21.6	78.4
Atlanta	25.0	75.0
Indianapolis	33.3	66.7
Detroit	34.1	65.9
Denver	36.4	63.6
St. Louis	37.7	62.3
Baltimore	38.0	62.0
New York	41.7	58.3
Seattle	42.2	57.8
Philadelphia	42.6	57.4
Memphis	44.0	56.0
Chicago	44.7	55.3
Cleveland	44.7	55.3
Miami	45.2	54.8
Phoenix	45.9	54.1
San Antonio	46.8	53.2
Los Angeles	47.4	52.6
New Orleans	50.0	50.0
Houston	54.9	45.1
Milwaukee	55.3	44.7
Charlotte	57.3	42.7
San Francisco	60.0	40.0

TABLE 12. FLOW OF INFORMATION BETWEEN GROUPS & REST OF COMMISSION?
(Percentage)

District Office	Effective	Not Effective
Dallas	17.5	82.5
Birmingham	20.7	79.3
Atlanta	21.4	78.6
Detroit	24.4	75.6
Baltimore	25.0	75.0
Cleveland	25.0	75.0
New York	25.0	75.0
Denver	29.5	70.5
Philadelphia	29.6	70.4
Charlotte	30.7	69.3
Phoenix	31.1	68.9
Seattle	31.1	68.9
Chicago	31.8	68.2
Miami	34.4	65.6
New Orleans	36.2	63.8
St. Louis	36.4	63.6
Indianapolis	38.3	61.7
Memphis	39.3	60.7
Los Angeles	42.1	57.9
San Francisco	44.6	55.4
Milwaukee	47.4	52.6
San Antonio	48.9	51.1
Houston	51.6	48.4

TABLE 13. DOES WORK GROUP HAVE CHANGE TO AIR VIEWS? (Percentages)

District Office	Always or Usually	Sometimes, Seldom, Never
New Orleans	32.5	67.5
Birmingham	32.8	67.2
Detroit	43.9	56.1
Atlanta	46.4	53.6
Dallas	48.5	51.5
Chicago	49.4	50.6
Denver	50.0	50.0
Indianapolis	50.0	50.0
New York	50.0	50.0
San Antonio	51.1	48.9
Cleveland	52.6	47.4
Baltimore	52.8	47.2
Philadelphia	52.8	47.2
Seattle	53.3	46.7
Memphis	54.8	45.2
Phoenix	58.1	41.9
Houston	58.2	41.8
Miami	59.1	40.9
Los Angeles	59.6	40.4
St. Louis	59.7	40.3
Charlotte	62.7	37.3
Milwaukee	63.2	36.8
San Francisco	66.2	33.8

TABLE 14. DO YOU HAVE ADEQUATE INFORMATION TO DO YOUR JOB? (Percentages)

District Office	Definitely Adequate	Uncertain, Not Adequate
New York	41.7	25.0
Birmingham	43.1	24.1
Dallas	43.3	22.7
St. Louis	50.6	22.1
Baltimore	50.9	21.3
Memphis	58.3	14.3
New Orleans	50.0	13.7
Denver	47.7	13.6
Detroit	56.1	12.2
Chicago	52.9	11.8
Indianapolis	53.3	11.7
Seattle	57.8	11.1
Philadelphia	59.3	11.1
Phoenix	56.8	10.8
Miami	64.5	10.8
San Antonio	72.3	10.6
Cleveland	50.0	9.2
Los Angeles	61.4	7.0
San Francisco	70.8	6.2
Charlotte	73.3	4.0
Atlanta	46.4	3.6
Houston	64.8	3.3
Milwaukee	76.3	2.6

APPENDIX C: UNDERSTANDING JOB REQUIREMENTS DIMENSION, NATIONAL TABLES

TABLE 15. UNDERSTANDING JOB REQUIREMENTS DIMENSION, AVERAGE NATIONAL PERCENTAGES

Favorable	50.8%
Not Favorable	49.2%

TABLE 16. ARE WORK OBJECTIVES CLEAR AND SPECIFIC? (Percentages)

	Number	Percent
Well Defined	1072	59.8%
Not Well Defined	721	40.2%
Total	1793	100.0%

TABLE 17. IS FORMAL TRAINING ADEQUATE? (Percentages)

	Number	Percent
Adequate	764	42.5%
Not Adequate	1033	57.5%
Total	1797	100.0%

TABLE 18. IS ON-THE-JOB TRAINING EFFECTIVE? (Percentages)

	Number	Percent
Effective	888	50.1%
Not Effective	885	49.9%
Total	1773	100.0%

APPENDIX D: UNDERSTANDING JOB REQUIREMENTS DIMENSION, DISTRICT OFFICE TABLES

TABLE 19. UNDERSTANDING JOB REQUIREMENTS DIMENSION, AVERAGE DISTRICT OFFICE PERCENTAGES

District Office	Favorable	Not Favorable
Detroit	30.1%	69.9%
Birmingham	33.9%	66.1%
Denver	34.9%	65.1%
New York	36.1%	63.9%
Dallas	38.1%	61.9%
Seattle	40.0%	60.0%
Cleveland	42.1%	57.9%
Memphis	42.4%	57.6%
Philadelphia	43.0%	57.0%
Atlanta	45.2%	54.8%
Indianapolis	46.6%	53.4%
New Orleans	47.1%	52.9%
St. Louis	50.2%	49.8%
Baltimore	51.2%	48.8%
Chicago	54.5%	45.5%
Houston	56.4%	43.6%
Charlotte	56.4%	43.6%
San Antonio	56.7%	43.3%
Miami	58.4%	41.6%
Milwaukee	58.8%	41.2%
Los Angeles	59.1%	40.9%
Phoenix	61.7%	38.3%
San Francisco	64.6%	35.4%

TABLE 20. ARE WORK OBJECTIVES CLEAR AND SPECIFIC? (Percentages)

District Office	Well Defined	Not Well Defined
Birmington	31.0	69.0
New York	33.3	66.7
Detroit	36.6	63.4
Dallas	44.3	55.7
Denver	45.5	54.5
Memphis	48.8	51.2
Cleveland	51.3	48.7
Seattle	53.3	46.7
Los Angeles	54.4	45.6
St. Louis	55.8	44.2
New Orleans	56.3	43.7
Indianapolis	58.3	41.7
Charlotte	60.0	40.0
Chicago	61.2	38.8
Baltimore	62.0	38.0
Houston	63.7	36.3
Atlanta	64.3	35.7
San Antonio	66.0	34.0
Phoenix	67.6	32.4
Philadelphia	68.5	31.5
Miami	69.9	30.1
San Francisco	70.8	29.2
Milwaukee	71.1	28.9

TABLE 21. IS FORMAL TRAINING ADEQUATE? (Percentages)

District Office	Adequate	Not Adequate
Denver	18.2	81.8
Detroit	29.3	70.7
Seattle	31.1	68.9
Dallas	32.0	68.0
Memphis	32.1	67.9
Cleveland	32.9	67.1
Indianapolis	33.3	66.7
New York	33.3	66.7
Birmington	36.2	63.8
New Orleans	37.5	62.5
Atlanta	39.3	60.7
Baltimore	39.8	60.2
Houston	44.0	56.0
Miami	45.2	54.8
San Antonio	46.8	53.2
Charlotte	49.3	50.7
Chicago	50.6	49.4
St. Louis	54.5	45.5
Milwaukee	55.3	44.7
Phoenix	55.4	44.6
Philadelphia	56.5	43.5
Los Angeles	59.6	40.4
San Francisco	63.1	36.9

TABLE 22. IS ON-THE-JOB TRAINING EFFECTIVE? (Percentages)

District Office	Effective	Not Effective
Philadelphia	4.0	96.0
Detroit	24.4	75.6
Atlanta	32.1	67.9
Birmington	34.5	65.5
Seattle	35.6	64.4
Dallas	38.1	61.9
St. Louis	40.3	59.7
Denver	40.9	59.1
New York	41.7	58.3
Cleveland	42.1	57.9
Memphis	46.4	53.6
New Orleans	47.5	52.5
Indianapolis	48.3	51.7
Milwaukee	50.0	50.0
Chicago	51.8	48.2
Baltimore	51.9	48.1
San Antonio	57.4	42.6
Charlotte	60.0	40.0
San Francisco	60.0	40.0
Miami	60.2	39.8
Houston	61.5	38.5
Phoenix	62.2	37.8
Los Angeles	63.2	36.8

Appendix II

Correspondence Between the Special Committee on Aging and the Equal Employment Commission

REVISED SCHEDULE OF QUESTIONS FOR THE EEOC PERTAINING TO AGE DISCRIMINATION IN EMPLOYMENT COMPLAINT/CASE MANAGEMENT AND RESOLUTION.

I. Please provide, for each of the fiscal years (1981 through 1987) totals for each of the EEOC's 23 districts and EEOC Headquarters:

1. Age Discrimination in Employment Act (ADEA) charges filed;

2. ADEA charge closures;

3. ADEA charges closed by negotiated settlements;

4. ADEA charges closed by withdrawals with benefits;

5. ADEA charges closed by successful conciliations;

6. ADEA charges closed by no cause/no violation;

7. ADEA charges closed by unsuccessful conciliation;

8. ADEA charges closed administratively (please list totals by each category of administrative closure);

9. EEOC investigations of ADEA cases closed prior to completion;

10. ADEA charges resulting in EEOC letters of violation (LOVs) following EEOC investigation;

11. ADEA LOVs resulting in EEOC staff recommendation for ADEA litigation;

12. ADEA LOVs not resulting in EEOC staff recommendation for ADEA litigation;

13. EEOC staff recommendations for ADEA litigation which were approved by the EEOC General Counsel for presentation to the Commission;

14. EEOC staff recommendations for ADEA litigation which were disapproved by the EEOC General Counsel for presentation to the Commission;

15. ADEA litigation of single/multiple party charges recommended by EEOC General Counsel and approved by the Commission;

16. ADEA litigation of class actions recommended by EEOC General Counsel and approved by the Commission;

17. ADEA litigation of single/multiple party charges recommended by EEOC General Counsel and disapproved by the Commission;

18. ADEA litigation of class actions recommended by EEOC General Counsel and disapproved by the Commission;

19. Commission reversals on its prior decisions to approve ADEA litigation involving single/multiple party charges;

20. Commission reversals on its prior decisions to approve ADEA litigation involving class actions;

21. Commission reversals on its prior decisions to disapprove ADEA litigation involving single/multiple party charges;

22. Commission reversals on its prior decisions to disapprove ADEA litigation involving class actions;

23. ADEA charges closed because of a lack of jurisdiction;

24. ADEA charges closed after charging party/parties indicated he/she/they would file suit;

25. ADEA charges closed after charging party/parties filed suit;

26. Initiations of litigation in ADEA cases involving single/multiple party charges;

27. Initiations of litigation in ADEA cases involving class actions;

28. ADEA single/multiple party cases which exceeded the two-year statute of limitations prior to EEOC staff recommendation to EEOC General Counsel concerning litigation;

29. ADEA single/multiple party cases which exceeded the two-year statute of limitations prior to EEOC General Counsel recommendation (concerning litigation) to the Commission;

30. ADEA single/multiple party cases which exceeded the three-year statute of limitations prior to EEOC staff recommendation to EEOC General Counsel concerning litigation;

31. ADEA single/multiple party cases which exceeded the three-year statute of limitations prior to EEOC General Counsel recommendation (concerning litigation) to the Commission;

32. ADEA class action cases which exceeded the two-year statute of limitations prior to EEOC staff recommendation to EEOC General Counsel concerning litigation;

33. ADEA class action cases which exceeded the two-year statute of limitations prior to EEOC General Counsel recommendation (concerning litigation) to the Commission;

34. ADEA class action cases which exceeded the three-year statute of limitations prior to EEOC staff recommendation to EEOC General Counsel concerning litigation;

35. ADEA class action cases which exceeded the three-year statute of limitations prior to EEOC General Counsel recommendation (concerning litigation) to the Commission;

36. ADEA single/multiple party cases which reached the age of 300 days, or older (since the date on which the charge was filed);

37. ADEA single/multiple party cases which reached the age of 500 days or older (since the date on which the charge was filed);

38. ADEA class action cases which reached the age of 300 days, or older;

39. ADEA class action cases which reached the age of 500 days, or older;

40. ADEA single/multiple party cases which will have reached the age of 300 days, or older, by the end of fiscal year 1987;

41. ADEA single/multiple party cases which will have reached the age of 500 days, or older, by the end of fiscal year 1987;

42. ADEA single/multiple party cases which will have reached the age of 730 days, or older, by the end of fiscal year 1987;

43. ADEA single/multiple party cases which will have reached the age of 1,095 days, or older, by the end of fiscal year 1987;

44. ADEA class action cases which will have reached the age of 300 days, or older, by the end of fiscal year 1987;

45. ADEA class action cases which will have reached the age of 730 days, or older, by the end of fiscal year 1987;

46. ADEA class action cases which will have reached the age of 1,095 days, or older, by the end of fiscal year 1987; and

II. Please provide for each of the EEOC's District offices the percentage of 300 day old, or older, cases which is being allowed to each District Office Director at the close of fiscal year 1987 in order to meet or exceed his/her performance standards for fiscal year 1987.

[NOTE: This list of questions, which was presented to the EEOC on September 16, 1987, is a revision of the questions submitted to the EEOC by Senator Melcher on September 3, 1987. The September 16, 1987 list of questions contains revisions suggested by EEOC staff during several meetings with staff of the Special Committee on aging.]

95-656 0 - 89 - 11

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, DC 20507

Office of the
Vice Chairman

Craig

September 18, 1987

Honorable John Melcher, Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510-6400

Dear Mr. Chairman:

I am writing to you to correct one portion of the record of the hearing which you chaired on September 10, 1987. The Commission will submit information separately to correct other aspects of the record. An unfortunate misunderstanding has come to my attention with regard to the arrangements for Chairman Thomas' and my testimony. Since this misunderstanding led you to chastise, on the record, a member of my personal staff, I would like to correct that record.

As you know, the hearings were scheduled on short notice. Both the Chairman and I had commitments around which we had to work. Deborah Graham, Director of Congressional and Legislative Affairs for the EEOC, had requested that Chairman Thomas and I be the first witnesses on the hearing agenda, a courtesy generally extended by Congressional committees to Administration witnesses. While that initial request was refused, Mr. Mitchie did agree to notify Ms. Graham one-half hour before our testimony would be required.

Accordingly, in a telephone call with Ms. Graham at 12:30 p.m., Mr. Mitchie set the time for our appearance at 1 p.m. I was dismayed to learn when the Chairman and I arrived at 12:50 p.m. that you had stated that you knew of no such arrangement. I hope that by now Mr. Mitchie has confirmed that arrangement. Certainly, had our initial request been honored, the confusion would not have occurred.

Chairman Thomas, I, and the staff of the EEOC, made every effort to cooperate with the Committee in the hope that the hearing would lead to better communication between the Committee and the Commission. That improved communication should certainly redound to the benefit of the public whose interests we are charged to serve.

I appreciate the opportunity to correct this portion of the record to reflect that Chairman Thomas and I were not late for the hearing.

Sincerely,

R. Gaull Silberman

R. Gaull Silberman
Vice Chairman

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF
THE CHAIRMAN

10/2/87

The Honorable John Melcher
Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your letter of September 21, 1987, posing additional questions to be included in the record of the September 10 hearing before the Senate Special Committee on Aging regarding EEOC's enforcement of the Age Discrimination in Employment Act.

QUESTION 1:

What is the Commission's existing policy regarding workforce reductions and early retirement programs as these may relate to age discrimination in employment? When did the Commission establish existing policy? What was the basis for establishing this policy? Does existing policy represent a change from previous policy and, if so, why was the policy changed, what was the previous policy, when was it established, and what was the basis for the previous policy? Please provide any and all documentation supportive of the answers to these questions.

ANSWER:

EEOC's enforcement takes a two-pronged approach: conciliation and litigation. Policy is established by the Commission through regulation, which then is implemented in its enforcement process. However, as in the case of Cipriano v. Board of Education, No. 84-CV-80C, United States District Court for the Western District of New York, EEOC through its litigation arm may find it necessary to take a position in the courts before the issue has been addressed through the regulatory process. The Commission is called upon to look at an issue within the narrow facts of the case. Such positions have policy implications and certainly may be looked to for guidance; they do not establish Commission policy.

The EEOC's legal position in Cipriano regarding workforce reductions and early retirement programs has been set forth in its July 31, 1987 Memorandum of Law as Amicus Curiae (a copy of the Memorandum is attached). The EEOC, on request from the Court of Appeals for the Second Circuit, developed its position after a period of intensive study of the legal and policy issues involved. The position developed in the Memorandum is based upon an analysis of the ADEA and its legislative history and of the court decisions in the employee benefits area with regard to the question asked by the court.

The early retirement issue is a relatively recent legal concern. Consequently, the position taken by the EEOC in Cipriano is newly developed, rather than a change from any established policy. It should be noted that the Commission has always considered and still considers coerced early retirement to be a violation of section 4(a)(1) of the ADEA. Similarly, it has always been and it remains the Commission's position that decisions concerning workforce reductions cannot be based upon age.

As in all areas of the law, the Commission is constantly examining its positions in light of case law, statutory changes, and any other relevant factors. We are currently reviewing the new section 4(i) of the ADEA to determine the effect of the section upon such areas as early retirement. If appropriate, the regulatory guidance under section 4(i) will analyze early retirement programs.

QUESTION 2:

Does the Commission currently have in place clear and settled policy regarding workforce reductions and early retirement programs as these may relate to age discrimination in employment and, if not, why has the Commission not yet established such policy?

ANSWER:

See answer to #1.

QUESTION 3:

Is existing policy as yet unclear and unsettled and, if so, when does the Commission intend to formulate and establish clear and settled policy?

ANSWER:

See answer to #1.

QUESTION 4:

Did the Commission's disapproval this past March of the Office of General Counsel recommendation for litigation in the Xerox case follow policy that existed at that time regarding workforce reductions and early retirement programs? If so, define that policy as it relates to the Commission's decision on Xerox.

ANSWER:

All litigation decisions are made by the Commission on a case by case basis. The Commission's consideration of the proposed Xerox case did not depart from any established policy. At the time the Xerox case was considered, the Commission had not expressed any views with respect to the legality of early retirement programs and the General Counsel had not yet filed the brief amicus curiae in Cipriano.

The litigation decision in the Xerox case was based on an analysis of the facts in that proposed case, made by each member of the Commission. We note that the Commission has initiated litigation in workforce reductions cases where, after examining the facts of a particular case, a majority of the Commission believed that there was sufficient evidence to establish ADEA violations.

Examples?

QUESTION 5:

Did the Commission's disapproval of litigation in the Xerox case establish new policy regarding workforce reductions and early retirement programs? If so, what was the policy established, and how does it differ from previous policy?

ANSWER:

All litigation decisions are made by the Commission on a case by case basis. Therefore the litigation decision in Xerox was based on an analysis of the facts in that proposed case, made by each member of the Commission. Such decisions made on the basis of the specific and unique facts of a specific case do not establish policy.

QUESTIONS 6 THROUGH 9:

Due to deliberative privilege as provided in the Government in the Sunshine Act, answers to questions 6 through 9 are submitted to the Committee under separate cover and should not be printed as part of the public hearing record.

QUESTION 10:

According to a August 18, 1987 memorandum from Charles Shanor, EEOC General Counsel, to all EEOC District Directors and Regional Attorneys, "[A] significant number of age cases being forwarded to the Commission for approval for litigation have statute of limitations problems. Over one-third of all PMs submitted involve cases that are beyond the three year statute of limitations." As of August 18, 1987, what was the actual number of cases that had run the two year statute of limitations? How many cases had been submitted beyond the three year statute of limitations?

ANSWER:

Initially, we wish to point out that unlike a private litigant, the Commission is required to investigate alleged ADEA violations and attempt to conciliate ADEA claims before considering litigation. (Sections 7(b)(d), 29 U.S.C. Section 626(b)(d).) The process of investigating and fully conciliating a charge can be quite time consuming. The private litigant, in contrast, only needs to wait 60 days from the filing of a charge to file his or her own private action. (Section 7(d), 29 U.S.C. Section 626(d).)

The ADEA, through its incorporation of relevant provisions of the Fair Labor Standards Act, provides for a two year statute of limitations. However, the statute of limitations is three years for "willful" violations. Until 1986, all circuit courts that had been called upon to define the term "willful" for statute of limitations purposes had followed the liberal "in the picture" standard of "willfulness" first enunciated in Coleman v. Jiffy June Farms, Inc., 458 F.2d 1139 (5th Cir.), cert. denied, 409 U.S. 948 (1972).* Under this standard, all that needed to be shown to establish a "willful" violation for purposes of the statute of limitations was that the employer knew the Act "was in the picture." 458 F.2d at 1142. In cases where we were confident that we could establish "willfulness" under this standard, there was no need to file the lawsuit within two years, for statute of limitations purposes.

It was not until the Supreme Court's decision in Trans World Airlines, Inc. v. Thurston, 469 U.S. 111 (1985), that two courts, the Third and Seventh Circuits, began to define "willfulness" more restrictively. In Thurston, the court construed the "willful" violation prerequisite to an award of liquidated damages under the ADEA, 29 U.S.C. Section 626(b), holding that the provision required a knowing violation of, or reckless disregard for, the requirements of the Act. Subsequent to the Thurston decision, both the Third and Seventh circuits applied this "reckless disregard" standard in the context of defining "willfulness" for statute of limitations purposes. The Department of Justice has filed a petition for certiorari in the Third Circuit case, Brock v. Richland Shoe Co., 799 F.2d 80 (3rd Cir. 1986), pet. for cert. filed, S.Ct. Docket #86-1520, a case in which the court of appeals adopted the "reckless disregard" standard for the statute of limitations. As of this date, the Court has not acted on the petition.

Once the Commission became aware of the Brock decision and the petition for certiorari in that case, we advised our field offices of this problem and directed them to expedite their submission of these cases for Commission litigation approval. The General Counsel's memorandum of August 18, 1987, is a product of this direction.

It is also important to recognize that in lawsuits filed by the Commission, the statute of limitations is tolled during the time the Commission is attempting to conciliate a case. (Section 7(e)(2), 29 U.S.C. Section 626(d)(2).) The tolling can result in an extension of the statute of limitations for up to one year. Ibid.

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* The "in the picture" standard was followed by the First, Second, Fourth, Fifth, Ninth, Tenth, Eleventh federal circuit courts of appeals.

Your request asks that we identify the number of ADEA cases submitted to our headquarters in Washington from our field offices, during the period from October 1, 1986, through August 18, 1987 which are beyond the two year and three year statute of limitations. Our records indicated that during this period, 61 were submitted within two years after the alleged violations, 35 additional cases within three years after the alleged violations, and 8 were submitted more than three years after the alleged violations.* In considering these figures, it is important to recognize that they do not take into consideration the tolling of the two and three year statutes of limitation periods, which may occur for as much as one year, for conciliation. The actual amount of time the statute is tolled is often a disputed issue of fact which requires judicial resolution after a suit has been filed. For this reason we are unable to precisely identify the effect the tolling provisions have on the applicable statute of limitations.

QUESTION 11:

What were the causes for the delays in submitting the presentation memoranda, and how do the delays described in the General Counsel's August 18, 1987 memo compare with such delays in 1986, 1985, 1984, and 1983?

ANSWER:

There are a number of reasons why the Commission's processing of ADEA charges, including our investigation and conciliation efforts, has been lengthy. As we discussed in our response to Question 10, the statutorily mandated process of investigation and conciliation can be quite time consuming. In addition, as we also previously noted in response to Question 10, the fact that our investigation and conciliation efforts extended beyond two years did not pose a statute of limitations problem in those jurisdictions following the "in the picture" standard of "willfulness" for statute of limitations purposes. Now that two circuits, the Third and Seventh Circuits, have adopted the more rigorous "reckless disregard" standard, we have advised our field offices that we must expedite our processing of these cases to avoid even the possibility that courts may apply the Thurston decision in construing the term "willful" in the three year statute of limitations.

The Commission has taken a number of steps to speed up the process of getting ADEA and other Commission cases to the Commission for their review. The increase we received in our budget this past fiscal year has allowed us to fill the numerous vacancies we had in our investigative staff. In addition, this past June the Commission conducted its first national training session in which all investigators were provided extensive training on effective investigative techniques. We believe that this training should lead to more effective, expeditious investigations in all Commission cases.

The Commission also has sought to reemphasize the need for rapid, but thorough, investigations in ADEA cases. The memorandum of August 18, 1987 which you cite is an example of this emphasis. In addition, the average case processing time in our district offices is 180 days. Such an average processing time should allow for complete investigations and at the same time ensure that cases are promptly processed. We have encouraged district offices to strive for 150 days where possible.

Finally, we wish to point out that the Commission does not maintain readily accessible data that would allow us to compare the time it took to process ADEA cases this fiscal year with the time it took to process such cases during fiscal years 1983 through 1986. To make this comparison, we would need to pull each of the ADEA cases submitted during this period to determine the processing time in each case.

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* There were a total of eight cases submitted during this period for which we do not at this time have sufficient information to make the requested statute of limitations calculations.

QUESTION 12:

It is the policy of the Commission to inform complainants of the running of these statutes, and if so, were all the complainants involved in the cases referred to in the General Counsel's August 18, 1987 memo notified prior to the running of the statutes of limitations? How were they notified, by telephone or in writing?

ANSWER:

Our compliance manual provides that, before an ADEA charge is taken, the Charging Party should be advised of the time limits for filing a charge and of the two year and three year statutes of limitation applicable in such cases. Our compliance manual further provides that once a charge has been taken, the Charging Party be given more information about the agency's procedures. As part of this post-charge counseling in ADEA cases, the manual directs the EEOC Investigators (formerly Equal Opportunity Specialists) to again advise the Charging Party that suit must be filed within two years of the discriminatory act (three years, if willful) to be timely. (Section 2.6(e)).

The EEOC has recently developed an "Information Sheet for Charging Parties and Complainants" (Exhibit 2-F in Compliance Manual). This sheet, which is available in English and Spanish, again advises those who have filed ADEA charges of the two year and three year statutes of limitation. In instances where ADEA charges are submitted to the Commission by letter, similar notification of the two and three year statutes of limitation is provided. (See Compliance Manual Exhibits 2-E & 2-F.)

After the EEOC terminates its processing of an ADEA charge, the Compliance Manual section which pertains to the dismissal of charges of discrimination specifically requires the investigators to advise Charging Parties of the applicable statutes of limitation in their particular case. To better inform individuals of their rights in these cases, the Commission has developed a written notice, in English and Spanish, to be provided to Charging Parties in such cases. (See "Information Sheet for Charging Parties and Complainants," Form SOP-10, 7/87.) (copy attached).

If the Commission has investigated a claim of age discrimination and determines that there is a reasonable basis to believe that the ADEA has been violated, the EEOC issues a letter of violation. Once a letter of violation is issued and conciliation is unsuccessful, the district office prepares a recommendation for Commission litigation. Section 66 of our compliance manual provides that if the Commission approves litigation, the district office should telephone the Charging Party to advise him or her of this decision. The manual also states that the district office should notify the Charging Party or other aggrieved individuals of their right to pursue their own private action when the EEOC will not initiate litigation.

The notice requirements, which have been discussed, also apply to concurrent ADEA/Title VII of ADEA/EPA jurisdiction. Section 6 of our Compliance Manual provides examples of form "Right to Sue" letters which each provide notice of the applicable two and three year statute of limitations. (See, e.g., Exhibits 6-C, 6-F & 6-G).

QUESTION 13:

During the hearing, we discussed the Commission's recent rule regarding waivers of rights under the ADEA. The Commission has consistently contended that for any waiver to be valid, it must be "knowing and voluntary" on the part of the employee. Would you please explain for the record the criteria to be used in determining whether such a waiver has, in fact, been made knowingly and voluntarily? Who will bear the burden of proving that such waivers were not made voluntarily? Would you please explain why this is the case? Does this represent a shift in the burden of proof from the past? Why or why not?

ANSWER:

The Commission decided to include specific standards for knowing and voluntary waivers in its Final Rule for two reasons: first, to provide greater protection for employees who sign waivers, and, second, to codify these standards in the Rule and in so doing to make clear the responsibilities of employers to ensure that waivers are not coerced.

The Final Rule identifies factors that the Commission will use to evaluate whether a challenged waiver is knowing and voluntary. These factors are: first, the agreement was in writing, in understandable language and clearly waived the employee's rights or claims under the ADEA; second, a reasonable period of time was provided for employee deliberation; and third, the employee was encouraged to consult with an attorney. Even where these specified factors are present, the Commission will, of course, when a waiver is challenged, carefully examine all circumstances of the waiver transaction to determine whether there was fraud or duress. When waivers are challenged, the Commission intends to look very closely at the substance as well as the form. The Commission will investigate the totality of the circumstances and make a determination whether the waiver is valid. If we find a waiver was not knowing or voluntary, we will take aggressive action to vindicate the rights of the individual who signed it.

In the course of reviewing challenged waivers, the Commission will inquire, of course, as to whether the employer apprised the employee of the rule and its safeguards prior to the execution of the waiver.

Where a waiver is challenged by an employee as not having been entered into in a knowing and voluntary manner, the Commission will ascertain from both parties the necessary information on that issue. Of course the employee challenging the waiver initially would be expected to articulate reasons for his belief that it was not knowing and voluntary. The challenged waiver then would be evaluated on the basis of the totality of the circumstances without using a formal process of initial burden or shifting burdens of proof. Once the Commission decides to litigate, the employer would bear the burden of proving the waiver as an affirmative defense.

This does not represent a shift from the past, but it is consistent with governing legal principles and is the manner in which the Commission has evaluated waiver defenses and challenged waivers under Title VII in the past.

QUESTION 14:

During the hearing, we discussed your Fiscal Year 1988 staff request. We also discussed the fact that you presently have several staff vacancies in your Systemic Litigation Services division of the Office of General Counsel. While I agree that additional staff is needed, would you please explain to me why Congress should grant your staffing request given the fact that you presently have so many vacancies which need filling? How soon do you plan to fill these vacancies?

ANSWER:

The Office of General Counsel has already hired two attorneys for Systemic Litigation Services. In addition, Systemic Litigation Services has been authorized by the Office of General Counsel to advertise for one additional attorney position, two clerical positions and a paralegal position. Further staffing decisions cannot be made until after the Office of General Counsel reviews the program and function of Systemic Litigation Services. This review is currently in progress.

My comments at the hearing regarding additional staffing related to the need to increase staffing in our field offices, the offices which carry the vast bulk of the Commission's workload of investigating, conciliating and litigating cases of discrimination.

For fiscal 1988, we have requested an appropriation of $193.4 million, an increase of $23.9 million over fiscal 1987 funding. The requested budget would allow EEOC to add 142 positions in our field offices across the country and in the Office of Review and Appeals, which reviews appeals of federal

sector EEO determinations. In addition, approximately $1 million of the request is for automation to more efficiently manage data pertaining to discrimination charges. State and local program funding would rise $4.2 million to a total of $24.2 million under our request.

QUESTIONS FROM SENATOR CHARLES GRASSLEY

QUESTION 1:

Has the Commission begun work on the regulations for the pension accrual amendments to the Age Discrimination in Employment Act, which became law as part of 99-509? If no: When will you begin work on them?

ANSWER:

The Commission began the interagency coordination process under P.L. 99-509 in November 1986. Coordination and drafting has proceeded actively since that time.

QUESTION 2:

Do you anticipate that the regs will be finished by the date stipulated in the legislation?

ANSWER:

The Commission anticipates finishing its portion of the regulations before February 1, 1988, the date specified in the legislation. The Commission cannot speak for the other agencies that have regulatory authority under P.L. 99-509 (Departments of Labor and Treasury).

QUESTION 3:

As I understand it, at the direction of the District Court in February, 1987, you rescinded Labor Department Interpretive Rulings which had been made in 1979 and dealt with pension accruals.

I also understand that the regulations for old pension accrual law, which you issued for comment April 2, 1987, were never issued in final form.

So, where does that leave us on the pension accrual issue for workers who worked after 65 years of age during the period from 1978 to the commencement of the new law in 1988?

ANSWER:

On July 10, 1987, the United States Court of Appeals for the District of Columbia Circuit remanded the case of American Association of Retired Persons v. EEOC to the District Court for the purpose of remanding the case to the Commission for review of its November 10, 1986 decision to terminate rulemaking. As yet the District Court has not remanded the case to the Commission. As soon as the District Court acts, the Commission will make a determination as to whether further regulatory action is needed under section 4(f)(2) of the ADEA, considering the effective date of section 4(i). It is unlikely that any action under section 4(f)(2) could be retroactive. The District Court that ordered rescission of the interpretative bulletin did not address whether the bulletin was or was not a correct interpretation of the ADEA.

QUESTION 4:

One of our witnesses stated that when an individual files a charge, EEOC gives no explanation of its procedures or what the complainant's responsibilities are. They also said that EEOC gives no assistance to complainants when employers are dilatory in providing documents. They argued that EEOC provides no explanation of findings that no discrimination occurred, and that there are lengthy delays before EEOC makes determinations which complicates the subsequent filing of a law suit.

How do you respond to these charges?

ANSWER:

Contrary to allegations made concerning the amount of assistance available to charging parties during the charge-filing process, EEOC utilizes the following standard procedures to provide such assistance:

o Complainants are provided with a fact sheet (copy attached) which outlines the responsibilities of both the Commission and the charging party in filing a charge. In a continuing effort to improve public understanding of the Age Act, we have made brochures available which provide information about the statutes EEOC enforces. In addition, investigators have been trained to ensure that charging parties are fully informed of their rights.

o In obtaining documents from employers during the course of an investigation, it should be understood that the responsibility for obtaining the documents rests with EEOC, not with the charging party. Therefore, rather than assisting complainants in obtaining such documents, EEOC first determines what information is pertinent, and then takes responsibility for obtaining that information as evidence for our records. If resistance is encountered in securing documentation, the Commission can and does utilize its subpoena power to obtain the information required to complete the investigation.

o The investigative process is complex and multifaceted, and may give way to occasional delays because variations in cases cause variations in the scope and length of the investigative process (e.g. whether on-site investigation is required) and in the kind of evidence needed. For example, cases in which it is not immediately clear that individual harm or disparate treatment has or has not occurred, or where there is more than a single charging party (as in class actions), or where the respondent is uncooperative, often require additional processing time. In some offices, delays have recently occurred because of the disparity between personnel available and the increasing number of cases handled.

o Generally, there is no validity to the assertion that EEOC provides no explanation of no discrimination (or no-cause) findings. Standard operating procedures establish that a pre-determination interview be held between the charging party and EEOC (either by telephone or in person). Our investigators do their best to contact charging parties prior to closing a case. However, this is not always possible since some charging parties are difficult to contact.

o The Commission recognizes that complainants are often dissatisfied with no-cause findings, and therefore, created the Determination Review Program in December 1986. This division, which began operation August 1, 1987, reviews no-cause determinations at the complainant's request. Field offices are now expected to issue letters of determination with a summary of the facts and the analysis that led to the determination. This will result in a more informative letter for charging parties.

QUESTIONS FROM SENATOR PETE WILSON

QUESTION 1:

On August 1, 1987, the Washington Post ran an editorial called "The EEOC Is Thriving." It said: "Under the quiet but persistent leadership of Chairman Clarence Thomas, the number of cases processed has gone from 50,935 in fiscal 1982 to 66,305 last year. In the same time period, legal actions filed went from 241 to 526. To handle this much larger caseload and higher litigation level, this year's budget request was a record $193,457,000. That's one-third more than was spent at the beginning of this administration and $28,457,000 over last year."

It goes on to say: "Legislators who care about civil rights enforcement have a special obligation to sustain an agency doing this work . . . ."

Mr. Thomas, how would you characterize EEOC's enforcement of the Age Discrimination in Employment Act in comparison to the other statutes it is responsible for? Where does ADEA fit into this impressive record?

ANSWER:

While we receive more race discrimination charges filed under Title VII of the Civil Rights Act than any other type of charge, age discrimination complaints are on the increase and as the workforce ages we expect this trend to continue.

In Fiscal 1986, we filed 427 lawsuits. Of those, 289 were filed under Title VII, 109 were filed under ADEA, 12 were filed under the Equal Pay Act and 17 were filed concurrently under more than one statute.

Also in Fiscal 1986, 50,110 of the charges we received were under Title VII, 17,443 were under ADEA and 1,269 under the Equal Pay Act.

Of the total $100.2 million in monetary relief secured on behalf of victims of employment discrimination by EEOC through litigation and conciliation in FY 1986, more than half -- $54.6 million -- was under ADEA.

In fiscal year 1986, the Commission obtained more monetary relief through litigation of age discrimination cases than ever before. The record amount of $36.6 million accounted for almost 80 percent of the total $46.4 million recovered in litigation for discrimination victims under all EEOC-enforced statutes.

Of the $53.8 million in monetary benefits achieved through compliance in fiscal year 1986, $34.3 million were benefits recovered under Title VII, $18 million were benefits under ADEA and $1.4 million were recovered under the Equal Pay Act.

QUESTION 2:

Under your leadership, the Commission has taken a number of steps to beef up its enforcement program. What exactly have you done? What has been the result?

ANSWER:

We have adopted a number of formal policies intended to ensure the predictability and efficacy of EEOC's enforcement of the law. Our Enforcement Policy states that the Commission will review for litigation every charge in which reasonable cause has been found and conciliation has failed. It assures the certainty and consistency of our enforcement efforts. Our Remedies Policy declares that discrimination victims shall receive the fullest relief possible in every case. The Investigative Compliance Policy assures that EEOC will effectively deal with respondents who fail to cooperate with Commission investigations. The Determination Review Program gives complainants the right to appeal no cause findings, thus assuring a quality investigative process.

The results of these policies are better cases and better enforcement. EEOC's improved enforcement statistics speak for themselves.

QUESTION 3:

You have made a number of administrative and management improvements at EEOC. What have you done in those areas? Why was it necessary?

ANSWER:

Among the improvements you refer to, we have instituted:

- improved financial accountability;
- computerization;
- streamlined organizational structure;
- agency-wide Quality Assurance program;
- comprehensive training program for investigators.

We instituted sound management practices so that we could maximize the quality, effectiveness and efficiency of EEOC's service to the public -- and so that we could turn EEOC into the law enforcement agency it should have been all along.

QUESTION 4:

How much of your workload is class action cases, as opposed to individual cases?

ANSWER:

In fiscal 1986, 148 of the total 427 lawsuits we filed were class actions. Of that 148 cases, 76 were filed under Title VII, 63 were filed under ADEA, five were filed under EPA and four were filed concurrently under more than one law.

I hope this information is helpful to you.

Sincerely,

Clarence Thomas
Chairman

Enclosures

US EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

INFORMATION SHEET FOR CHARGING PARTIES AND COMPLAINANTS

EEOC PROCEDURES:

The Equal Employment Opportunity Commission (EEOC) will investigate the allegations you have made. The EEOC investigator will ask you questions, will ask the respondent questions, may ask witnesses questions, and may review records. Based on the evidence gathered, the investigator will prepare a recommended determination for the Office Director on whether discrimination has occurred. You will be given a Letter of Determination which will state whether there is reason or not to believe that discrimination has occurred. If you have filed a complaint, rather than a charge, or if you have had a charge filed on your behalf, your identity as a complainant will be kept in confidence throughout EEOC's handling of your case.

- **If the Director believes that the allegations you have made are supported by the evidence, the Letter of Determination will say this and will ask the respondent to meet with EEOC and work out an agreement which will provide relief for the harm caused by the discrimination. If an agreement cannot be worked out, the investigation file will be reviewed in EEOC Headquarters and EEOC (or the Department of Justice in some cases) will either sue on your behalf or notify you of your right to sue (see information below about Your Private Suit Rights).**
- **If the Director believes that some or all of the allegations in your charge are not supported by the evidence, the Letter of Determination will say this and will notify you of your right to request EEOC Headquarters review of the Determination and of the date that the Determination will become final if you do not request review. A Request for Review Form will be sent to you with the Letter of Determination.**

  If you do not request review within 14 days of the Determination, it will become EEOC's final determination on the 15th day and the investigation will be ended. You can then decide if you want to file a private lawsuit to enforce your rights in court (see the information below about Your Private Suit Rights).

  If you request EEOC Headquarters review of the Determination within 14 days, and your request is accepted, a final EEOC Determination will be sent to you after the review is complete. This Determination will notify you if EEOC will take any further action and the effect on your private suit rights.

YOUR RESPONSIBILITIES:

Please inform EEOC of any prolonged absence from home or change of your address. Please claim any certified mail which EEOC may send you. If EEOC cannot locate you or if EEOC asks you to do something necessary to its investigation, and you decline to do so, EEOC may notify you that the investigation will be discontinued and notify you of your right to sue (see the information below about Your Private Suit Rights). You may retain a lawyer while your case is investigated, but you are not required to do so.

YOUR PRIVATE SUIT RIGHTS UNDER TITLE VII:

If you filed a charge with EEOC under Title VII of the Civil Rights Act, you have preserved your right to sue the respondent named in your charge. If we cannot resolve your charge, we will notify you of your right to sue. You may then file a lawsuit in U.S. District Court witnin 90 days from receipt of our Notice in order to enforce your rights in court. Once this 90 day period is over, your right to sue is lost. EEOC may give you notice of your right to sue in the following circumstances:

- If You Ask for a Notice of Right to Sue. You may not wish to wait for EEOC to complete its investigation or your attorney may recommend that you file your own lawsuit. You can obtain a Notice of Right to Sue in such cases by asking the Office where you filed your charge to issue a Notice to you, even though our investigation is not finished. If you ask, EEOC will issue a Notice to you after 180 days have passed from the date you filed your charge. In some cases, if you ask, we will issue the Notice to you at an earlier time, if it is known that the investigation will take a long time to complete. You will have 90 days to file suit from the day you receive the Notice of Right to Sue.

- If EEOC Finds No Violation with Respect to All the Allegations in Your Charge. Before this happens, you will be interviewed by EEOC and given an opportunity to provide additional evidence. If, at the end of investigation, you are given a Letter of Determination stating that there are no violations, you will be told that you may, within 14 days, ask EEOC Headquarters to review the Determination. You will have 90 days to file suit from the day a determination in your case becomes final -- either after the 14 day period is over if you do not ask for a review or after final EEOC action at a later date if you do ask for a review.

- If EEOC Finds a Violation, Fails to Obtain Relief, and Decides Not to Sue on Your Behalf. If EEOC finds a violation but does not succeed in obtaining relief under the law, the investigation is reviewed by EEOC's Commissioners to decide if a lawsuit will be filed. Sometimes the Commissioners decide that a lawsuit will not be filed. If this happens, you will be notified and receive a Notice of Right to Sue. You will have 90 days to file suit from the day you receive the Notice.

- If Your Charge is Dismissed. EEOC Regulations require a charge to be dismissed when (1) an investigation shows that the law does not apply to your case, (2) when it is not possible to continue the investigation due to an inability to locate you, (3) because you did not cooperate in some way necessary to the investigation, or (4) you did not accept a settlement offer which afforded you full relief for the harm which you alleged. EEOC may discontinue its investigation by notifying you that it has dismissed your charge. You will have 90 days to file suit from the day you receive the Notice of Right to Sue.

YOUR PRIVATE SUIT RIGHTS UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA) OR EQUAL PAY ACT (EPA):

If you filed a charge or complaint under the ADEA or EPA, the above rules on your private suit rights do not apply. However, as stated on the reverse side under "EEOC Procedures", you may request an EEOC Headquarters review of a no violation finding under these laws. Please note that such a request for review will not extend the time you have for filing a lawsuit. You must file suit within two years of the alleged discrimination (three years in cases of willful violations). You must wait 60 days from the day you filed an ADEA charge before you can sue under that law.

If you have any questions, please call the EEOC office which last handled your case.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF
THE CHAIRMAN

OCT - 6 1987

The Honorable John Melcher
Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Senator Melcher:

This letter separately responds to questions 6, 7, 8, and 9 of your September 21, 1987 letter. We respond separately because we request that the questions and answers not be made part of the public record of the September 10 hearing before the Senate Special Committee on Aging.

The general governmental deliberative privilege is a well recognized privilege against the disclosure of pre-decisional discussions and deliberations. Its purpose is to permit decisionmakers to explore all avenues of inquiry, to freely exchange ideas and to candidly state opinions. The questions identified above reveal part of the Commission's deliberations on whether to institute suit against Xerox and we request that the Committee honor the privileged nature of those deliberations. Likewise, the Government in the Sunshine Act exempts from public disclosure any matter relating to an agency's decision whether to participate in a lawsuit. [5 U.S.C. subsection 552 b(c) (10)]. This statutory exemption shares the same purpose as the general governmental deliberative privilege and protects the law enforcement decisions of the Commission from disclosure, i.e., prevents disclosure of standards or theories used in the prosecutional decision making process so that companies cannot structure their operations to avoid prosecution of statutory violations.

We request that you honor this Congressionally created privilege against disclosure.

Sincerely,

Clarence Thomas
Chairman

QUESTIONS 6 THROUGH 9
FROM SENATOR JOHN MELCHER

QUESTION 6:

EEOC regulation at 29 CFR 1625.7(f) establishes that a defense of economic necessity cannot be used by employers to justify terminating older workers. Nonetheless, during the Commission's meeting on March 16, 1987 at which the Office of General Counsel presented its recommendation to pursue age discrimination litigation against Xerox, you stated: "Getting rid of higher-priced employees who happen to be older is not a violation of the Act. . . This is a common business practice. If we hold against Xerox, then we'll have to go after everyone else." What are the legal and regulatory bases for these opinions which you voiced at the March 16 meeting? Do these opinions constitute Commission policy and, if so, when was this policy established? Please provide any and all documentation supportive of your answers to these questions.

ANSWER:

Decisions involving litigation are considered in closed sessions so that all members of the Commission may voice any and all questions which may be suggested by the facts of a particular case. Although I have not reviewed the taped recording of the closed Commission meeting which is referenced in Question 6, I can say that all questions raised by me during any closed sessions are made in the spirit of open discussion and no question I may ask establishes a Commission policy or binds any other member of the Commission.

QUESTION 7:

During that same March 16, 1987 Commission meeting, you stated during the discussion of the Xerox case: "These voluntary reductions-in-force, which are always going to be directed at senior employees, are not violative of the Act unless you can prove coercion." When asked by Associate General Counsel James Finney, "Wouldn't a threat of an involuntary reduction in force constitute coercion?", you responded, "No, it constitutes reality." Please explain what you meant by stating that "it constitutes reality." What are the legal and regulatory bases for your opinion that the "threat of an involuntary reduction in force" constitutes "reality" and not "coercion"? Please provide any and all documentation supportive of your answers to these questions.

ANSWER:

In question 7, reference is made to a brief exchange during a closed meeting. Although I have not reviewed the taped recording of that meeting, my recollection is that during the Commission meeting I observed that it appeared to me that a company would always use an involuntary layoff program if a voluntary program was ineffective in reducing a workforce.

This remark was made because I was wondering how it is possible to infer hostility to older workers and age-based animus based solely on the fact that a company is prepared to conduct involuntary layoffs if a voluntary program fails to reduce the workforce.

QUESTION 8:

In light of your opinions expressed at the March 16 meeting regarding the Xerox case, please describe what, in your opinion, would constitute coercion in workforce reductions and early retirement programs affecting older workers, and what would have satisfied your definition of coercion in the Xerox case.

ANSWER:

The consideration of litigation is made on a case by case basis only after investigation and conciliation has not resolved the matter. Inasmuch as the facts of every case are unique, I cannot speculate what additional facts may be uncovered in a different case. I can only say that in the Xerox case, the totality of the evidence presented did not convince me that age animus or age-based coercion had been proven.

QUESTION 9:

You stated in testimony before the Committee on September 10, 1987 that, when the Office of General Counsel presented the Xerox case to the Commission for consideration on March 16, 1987, General Counsel "provided no evidence" to support its recommendation for litigation in the Xerox case. Later, upon examining documents from the Commission's Xerox case files, I found that you and the other Commissioners had been provided, or had been made aware of, the following: internal EEOC staff memoranda establishing that, since 1984, when EEOC opened its investigation of Xerox, the company had continued to withhold information and data essential to the EEOC investigation and had misrepresented computer data it had furnished for a period of six months; and statistical analyses, testimony from former Xerox officials, copies of internal Xerox memos, and interviews from more than 50 former Xerox employees which "showed compelling evidence of a pattern of deliberate age discrimination" by Xerox officials. What were the legal and regulatory bases for your having discounted these materials and information as evidence? Please provide any and all documentation supportive of your answer to this question.

ANSWER:

During the consideration of litigation, each member of the Commission analyzes the facts of a particular case and draws conclusions based on those facts. I reviewed internal staff memoranda during my analysis of the facts of the Xerox case. However, in that case, I disagreed with the conclusions drawn by the staff of the Office of General Counsel because in my opinion, the facts cited in the staff memoranda were insufficient to support the conclusion that the company was motivated by age discrimination in conducting its reduction in force program. In fact, in this memorandum, the attorney presenting the case did not claim that our investigation produced evidence of intentional discrimination for the period of time relevant to litigation (post 1983). Rather, the memorandum notes there is evidence of earlier discrimination and states a belief that "during discovery, we can obtain similar evidence regarding the post 1983 time period."

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF
THE CHAIRMAN

October 8, 1987

The Honorable John Melcher
Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed are responses to question numbers 1 through 8 and 23 from Mr. James Michie's revised list of 48 requests for EEOC statistics.

EEOC staff was required to turn from their regular duties to program the computer to obtain these answers for your staff. To date, EEOC staff has spent approximately 300 hours responding to your staff's requests for statistics alone. This does not include the inordinate number of hours spent compiling, copying and researching other information requests from the Committee and staff.

We are proud of our enforcement record and gladly have provided, and will continue to provide, your staff with the information and statistics we do have available. However, EEOC staff is unable to divert any more time from their duties in support of our law enforcement efforts to conduct research, program computers and compile data for your staff that is not already available.

In my letter of September 4, I had advised that if you would simply ask us what you wanted to know, we probably could provide the information in a form that already is available. Instead, the committee staff has persisted in presenting unfocused requests for data configurations that do not exist.

On September 1, I requested that your staff coordinate all of its activities through the Office of Communications and Legislative Affairs. Nevertheless, your staff has continued to call and visit EEOC staff without arranging such contacts through our established liaison. Such unscheduled calls and visits have disrupted the work of my agency and will not be permitted further.

Sincerely,

Clarence Thomas
Chairman

Enclosure

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

November 5, 1987

Mr. Jim Michie
Senate Special Committee on Aging
G-32 Dirksen Senate Office
Washington, D.C. 20510

Dear Mr. Michie:

To verify your conversation with Marcia Sayer of this office earlier today, EEOC's established Congressional liaison procedures require all Congressional inquiries to come through this office. The purpose of this is to minimize disruption to the work of other staff engaged in enforcing the laws against employment discrimination. One of this office's primary functions is to provide Congress with information requested in an orderly, expeditious, thorough and efficient manner.

The information you have requested from the General Counsel will be available in my office (Room 412) tomorrow morning. You may review it in my office or take copies back to the Hill for review. As you had indicated an interest in meeting with Mr. Paul Brenner tomorrow morning, he will be available to come to my office to meet with you after you review the material, if you wish.

Pursuant to Chairman Thomas' letters of September 1 and October 8 to Chairman Melcher, we again insist that you arrange all such visits through myself or Marcia. Copies of those letters are attached as a reminder.

Sincerely,

Deborah J. Graham
Director of Communications
and Legislative Affairs

Attachments

cc: Chairman Clarence Thomas

Marcia Sayer, Director
Legislative Affairs Staff

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF
THE CHAIRMAN

October 8, 1987

The Honorable John Melcher
Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed are responses to question numbers 1 through 8 and 23 from Mr. James Michie's revised list of 48 requests for EEOC statistics.

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Sincerely,

Clarence Thomas
Chairman

Enclosure

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF
THE CHAIRMAN

September 1, 1987

The Honorable John Melcher
Chairman
Special Committee on Aging
Washington, D.C. 20510-6400

Dear Senator Melcher:

I wish to acknowledge receipt of your August 25, 1987 letter informing me of the Special Committee on Aging inquiry into the Equal Employment Opportunity Commission's enforcement and administration of the Age Discrimination in Employment Act.

In keeping with our established liaison procedures and to facilitate an organized response to your request for staff access to EEOC documents and records relative to age discrimination complaint/case management, please coordinate all information requests and personal staff visits to EEOC offices through Deborah Graham, Director of Communications and Legislative Affairs and/or Marcia Sayer, Director, Legislative Affairs Staff. Both can be reached at 634-6036. This central contact point for all requests from the Congress will enable us to be of greater assistance to you.

Sincerely,

Clarence Thomas
Chairman

Copy FYI

JOHN MELCHER, MONTANA, CHAIRMAN
JOHN GLENN, OHIO
LAWTON CHILES, FLORIDA
DAVID PRYOR, ARKANSAS
BILL BRADLEY, NEW JERSEY
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G. LAWRENCE ATKINS, MINORITY STAFF DIRECTOR

United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

November 9, 1987

The Honorable Clarence Thomas
Chairman
The Equal Employment Opportunity Commission
Columbia Plaza, Room 500
2401 E Street, N.W.
Washington, D.C. 20507

Dear Chairman Thomas:

I am in receipt of your letters dated October 2, 6, and 8, 1987, regarding my requests for information and data on the EEOC's enforcement of the Age Discrimination in Employment Act (AEDA).

The Committee must have the basic computerized data concerning the management and tracking of ADEA charges and litigation. I shall not accept your failure to respond to my requests for information which is essential to the Committee's continuing inquiry into the EEOC's performance in administering and enforcing the ADEA. The Committee's hearing record is not complete without this information. Furthermore, the Committee is directed by the Senate to make periodic reports. Your unnecessary delays in supplying us with information is an unwarranted withholding of information from the Senate.

I am enclosing a copy of the schedule of questions for data, which have been revised in accordance with the suggestions of your staff.

Also, please provide the Committee with the following: (1) a copy of the audio tape recording of the March 16, 1987 Commission meeting in which the General Counsel presented his recommendation for litigation in the Xerox case; and (2) a copy of the report, drafts and/or final, on the recent internal EEOC audit of Systemic Services within the EEOC's Office of General Counsel.

Please provide the information, data, and materials requested above by November 19, 1987.

Should you or your staff have any questions regarding my requests, please have your staff contact Max Richtman, Committee Staff Director, at 224-5364.

Thank you for your cooperation and assistance in this important matter.

Sincerely,

John Melcher

John Melcher
Chairman

Enclosure

SCHEDULE OF QUESTIONS TO THE EEOC PERTAINING TO
AGE DISCRIMINATION IN EMPLOYMENT
COMPLAINT/CASE MANAGEMENT AND RESOLUTION

I. Please provide, for each of the fiscal years (1981 through September 1987), totals for each of the EEOC's 23 districts and EEOC Headquarters:

1. Age Discrimination in Employment Act (ADEA) charges filed.

2. ADEA charge closures:

   a. by negotiated settlements;
   b. by withdrawals with benefits;
   c. by successful conciliations;
   d. by no cause/no violation;
   e. by unsuccessful conciliation;
   f. because of lack of jurisdiction;
   g. after charging party/parties indicated willingness/intention to file suit;
   h. after charging party/parties filed suit;
   i. administratively (Please list totals by each category of administrative closure);
   j. before completion of EEOC investigation.

3. ADEA charges resulting in EEOC letters of violation (LOVs) following EEOC investigation

4. ADEA LOVs resulting in:

   a. EEOC staff recommendation for ADEA litigation;
   b. no EEOC staff recommendation for ADEA litigation.

5. EEOC staff recommendations for ADEA litigation:

   a. approved by the EEOC General Counsel for presentation to the Commission;
   b. disapproved by the EEOC General Counsel for presentation to the Commission.

6. Single/multiple party charges:

   a. recommended for litigation by the EEOC General Counsel and (1) approved by the Commission, (2) disapproved by the Commission;
   b. for which the Commission reversed a prior decision:
      (1) to approve ADEA litigation;
      (2) to disapprove ADEA litigation;
   c. which, prior to EEOC staff recommendation (concerning litigation) to the EEOC General Counsel, exceeded:
      (1) the two-year statute of limitations;

(2) the three-year statute of limitations;

d. which, prior to EEOC General Counsel recommendation (concerning litigation) to the Commission, exceeded:
   (1) the two-year statute of limitations;
   (2) the three-year statute of limitations;

e. which reached (from date of filing) the age of at least:
   (1) 300 days;
   (2) 500 days;
   (3) 730 days;
   (4) 1,095 days.

7. ADEA class action cases:

   a. recommended for litigation by EEOC General Counsel and (1) approved by the the Commission and (2) disapproved by the Commission.
   b. for which the Commission reversed a prior decision of (1) approval of litigation and (2) disapproval of litigation;
   c. which, prior to EEOC's staff recommendation (concerning litigation) to EEOC General Counsel, exceeded:
      (1) the two year-statute of limitations;
      (2) the three-year statute of limitations;
   d. which, prior to EEOC General Counsel recommendation (concerning litigation) to the Commission, exceeded:
      (1) the two-year statute of limitations;
      (2) the three-year statute of limitations;
   e. which reached the age of at least:
      (1) 300 days;
      (2) 500 days;
      (3) 730 days;
      (4) 1,095 days.

8. Initiations of Litigation:

   a. ADEA cases involving single/multiple party charges;
   b. ADEA cases involving class actions.

II. Please provide for each of the EEOC's District offices the percentages of 300 day old, or older, cases which is being allowed to each District Office Director at the close of fiscal year 1987 in order to meet or exceed his/her performance standards for fiscal year 1987.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF
THE CHAIRMAN

NOV 23 1987

The Honorable John Melcher
Chairman
Senate Special Committee on Aging
G-42 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Melcher:

In response to your letter of November 9, EEOC already has provided the Committee with all basic computerized data we have available concerning the management and tracking of ADEA charges and litigation. The questions attached to your November 9 letter are identical to the questions referred to in my letter of October 8th. To compile the additional data you have requested, EEOC staff would be required to divert an enormous amount of time away from their regular duties to reprogram the agency computers and to research information from paper files. EEOC has no desire or reason to withhold information from the Senate. The information and data we already have provided your committee presents a very clear picture of our enforcement of ADEA.

In response to your request for an audio tape recording of the Commission's closed session of March 16, we do not distribute copies of such tapes outside the agency. However, your staff is more than welcome to make an appointment to visit EEOC and listen to the tape again by contacting Deborah Graham or Marcia Sayer at 634-6036.

I hope you will ask your staff to cease contacting agency personnel in an attempt to obtain unauthorized copies of the internal audit of Systemic Litigation Services. A copy of the audit report will be provided to your Committee after it has been finalized, presented to the General Counsel for his review and any necessary action determined.

Sincerely,

Clarence Thomas
Chairman

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF
THE CHAIRMAN

JAN 25 1988

The Honorable John Melcher
Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Because of your interest in the enforcement of the Age Discrimination in Employment Act by the Equal Employment Opportunity Commission, I am writing to notify you of an enforcement situation that has been brought to my attention and the steps I am taking to rectify the problem.

EEOC maintains statistics to assist our managers in efficiently tracking and managing our enforcement of the laws. As part of a management review last fall, our district offices were asked to supply statistics on all open ADEA charges. Review of these statistics revealed that the statute of limitation had expired on approximately 900 cases, primarily located in eight of the district offices.

These 900 cases are of a total 17,000 ADEA pending charges. It is not yet clear what percentage of these cases would have warranted conciliation or litigation efforts by the EEOC. However, applying the Commission's "cause rate," which amounts to about five percent of all charges filed with the agency, the number of potential cases that might have had a cause finding within the statute of limitations is probably around forty. These 900 charges reflect all ADEA charges filed with EEOC where the statute of limitation has expired, but does not reflect the length of time EEOC has had the charge. Even though the statute may have elapsed, it is likely that some of these charges may have been filed with EEOC only for a few days, weeks or months at the time the data was collected. It also is possible that the statute had already expired at the time some of the charges were filed. Some field offices intend to file or have filed actions in court on behalf of some of the charging parties included in the 900 cases. We currently are in the process of verifying further all of the facts surrounding these 900 cases.

Corrective action has been taken to ensure that such mismanagement of cases does not occur in the future. The attached memo went to all of the field offices in December stating unequivocally that such mismanagement will not and cannot be tolerated. Certain appropriate disciplinary steps have already been taken against some of the offending district directors, and as their performance agreements require, we will continue to demand their thorough and expeditious handling of all cases within their jurisdiction.

We also have issued a directive providing guidance for restructuring case management approaches and requiring itemized reports of pending workloads and statements from all office directors for the reasons the statute expired before charge resolution during fiscal 1987.

Specifically, our field office directors have been instructed as follows: In the event an individual files an untimely ADEA charge (nearing the expiration of the two year statute of limitations), the case will be considered on a priority basis. ADEA cases accepted for processing within 90 days of the expiration of the two year period now require written notification to the charging party of the statute of limitations and of their rights and responsibilities under the ADEA. Written notification will also be sent to charging parties 60 days prior to the two year statute expiration date for any ADEA case pending completion informing them of the expiration date and their right to file a suit on their own behalf.

I am sharing this information with you in an effort to keep you apprised of our enforcement actions. Please let me know if you have any questions regarding this matter.

Sincerely,

Clarence Thomas
Chairman

Attachment

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF
THE CHAIRMAN

December 21, 1987

MEMORANDUM

TO: All District, Area and Local Directors

FROM: Clarence Thomas
Chairman

SUBJECT: ADEA Statute of Limitations

For years I have expressed my concern that we take special care to ensure that all charges filed with EEOC are properly and expeditiously investigated and I have repeatedly cautioned you against unnecessary delays in case handling which might result in the expiration of a statute of limitations. Nevertheless, in a number of ADEA cases last year, the two-year statute of limitations was allowed to expire without justification. I find this disgraceful and absolutely inexcusable.

This agency's mission is to protect employees' rights to be free from discrimination, not to deny them those same rights by our failure to complete their cases within statutory time frames. Indeed, I view allowing a statute of limitations to lapse in a case to be tantamount to a dereliction of duties.

I will not tolerate such mishandling of even one case. No supervisor or manager in this agency can be considered to have performed their job in a satisfactory manner if the applicable statute of limitations in any case under their supervision is allowed to expire. Accordingly, I expect each of you, if you have not already done so, to immediately develop and implement appropriate measures in your office to ensure that there is no recurrence of this distressing problem.

JOHN MELCHER, MONTANA, CHAIRMAN
JOHN GLENN, OHIO
LAWTON CHILES, FLORIDA
DAVID PRYOR, ARKANSAS
BILL BRADLEY, NEW JERSEY
QUENTIN N. BURDICK, NORTH DAKOTA
J. BENNETT JOHNSTON, LOUISIANA
JOHN B. BREAUX, LOUISIANA
RICHARD SHELBY, ALABAMA
HARRY REID, NEVADA
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MAX L. RICHTMAN, STAFF DIRECTOR
G. LAWRENCE ATKINS, MINORITY STAFF DIRECTOR

United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

January 27, 1988

The Honorable Clarence Thomas
Chairman
The Equal Employment Opportunity Commission
Columbia Plaza, Room 500
2401 E Street, N.W.
Washington, D.C. 20507

Dear Chairman Thomas:

I am in receipt of your letter dated January 25, 1988 regarding expiration of the two year statute of limitations in a number of Age Discrimination in Employment Act (ADEA) charges.

I am deeply troubled over this disturbing revelation. Most distressing of all is the fact that older workers--regardless of the number involved--have been denied their right to seek redress. I quite agree with you that this development is, indeed, both "disgraceful and inexcusable."

What I also find intolerable is your repeated refusals over the past four months to share this data with this Committee, when, in September and again in November, I had specifically requested from you in writing this and other data pertaining to case tracking and handling of ADEA charges. Your responses, as well as those of your staff in a meeting with Committee staff on December 1, 1987, led me to falsely believe that these data were not available.

Your final response to my requests for data, forwarded to Lloyd Duxbury by Deborah Graham of your office and dated December 23, 1987, did not contain information on the 900 ADEA charges which you referred to in interviews with news reporters prior to your final response to the Committee. Moreover, on December 21, 1987, two days prior to your December 23 response to me, you forwarded to your District, Area and Local Office Directors a tersely worded memorandum scolding them for permitting ADEA charges to run the statute. Members of your own staff have informed Committee staff that you were in possession of these data as early as late September or early October of last year. I believe you owe this Committee a full explanation regarding this very serious matter.

Sincerely,

John Melcher

JOHN MELCHER
Chairman

JM:jfm

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF
THE CHAIRMAN

FEB 01 1988

The Honorable John Melcher
Chairman
Special Committee on Aging
U. S. Senate
Washington, DC 20510

Dear Mr. Chairman:

I find the tone of your letter dated January 27 both uncalled for and highly offensive. I have not led you to "falsely believe" anything, and I resent being called a liar.

Despite the fact that my staff and I repeatedly asked that you and your staff clarify your requests to specify the information you were seeking, you never made a specific request for lists of open ADEA charges that had exceeded the two-year statute of limitations. What you requested and we provided on September 8, October 6 and December 23, 1987 was data pertaining to ADEA cases that already had been recommended for litigation either by staff or by the General Counsel.

The information on the 900 charges was tabulated manually as part of a management review. I was advised in November by one of our District Directors that it was possible some of the field offices were not entering certain charge information onto the agency computer system. I was concerned that this might include ADEA charges that were still open in which the statute of limitations had expired. I then requested headquarters officials to look into this matter and provide me with a report. I received the information shortly before Christmas and issued the memo that I shared with you in my last letter. I then made the matter public by providing the information to a news reporter for publication. It is ludicrous for anyone to believe that I would refuse to share this information with you, then turn around and give it to the press. As you know, I even took the initiative to advise you by personal letter about these 900 cases.

We are looking further into the 900 cases and I have promised to report our findings to Chairman Roybal of the House Select Committee on Aging. I will send you a copy of that report when it is complete.

Sincerely,

Clarence Thomas
Chairman

02/02/1988 15:29 EEOC OCLA 202 634 7332 P.01

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

February 2, 1988

MEMORANDUM

TO: Lynn Bruner
District Director, St. Louis

FROM: Marcia Sayer
Director of Legislative Affairs Staff

I received your memo of January 29, 1988 regarding agency procedures in responding to requests from congressional committees, committee staff and Members of Congress. Your understanding of the process is correct. I would add and emphasize that the Office of Communications and Legislative Affairs needs to receive a copy of all information that is provided to the congressional caller. Inasmuch as this office does the preparation for the Chairman's appearances before congressional committees, it is very important that the Chairman be informed as to what data and information has been provided to a committee or Member of Congress so that the Chairman is prepared to respond to inquiries about a particular matter.

We appreciate you keeping this office informed of the information requests from congressional committee staff and hope you will continue to do so.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
CENTRAL WEST PLAZA BLDG. 3rd Floor
625 NORTH EUCLID
ST. LOUIS, MISSOURI 63108

FEB 11 1988

Mr. Jim Miche
Staff Assistant
Special Commission on Aging
U.S. Senate
Room S-D-G41
Washington D.C. 20510

Dear Mr. Miche:

In line with your recent request, I am enclosing copies of correspondence which I have had with our Headquarters office concerning the status of age cases in the St. Louis District. This response is in line with instructions I received from our Office of Congressional and Legislative Affairs.

My memo of September 16, 1986, describes the overloaded condition of the Kansas City office, and points out that a problem exists in the processing of all cases. You should note, however, that it also indicates that we made a sincere effort to preserve the rights of charging parties by routinely notifying them 90 days prior to the expiration of the statute of limitation. In addition, we assigned as many age charges as possible. I bring this to your attention because it is indicative of our efforts to preserve charging parties rights despite our overloaded conditions.

Sincerely,

Lynn Bruner
District Director

Enclosures

cc:
Office of Congressional
and Legislative Affairs

UNITED STATES OF AMERICA

Congress of the United States

To Clarence Thomas, Chairman, U.S. Equal Employment Opportunity Commission, Columbia Plaza, Rm. 500, 2401 E Street, N.W. Washington, D.C. 20507, *Greeting:*

Pursuant *to lawful authority, YOU ARE HEREBY COMMANDED to appear before the* Special *Committee on* Aging *of the Senate of the United States, on* March 11, *1988, at* 10:00 *o'clock* a.m., *at their committee room* SD-41 in the Dirksen Senate Office Building, *then and there to testify what you may know relative to the subject matters under consideration by said committee.* at a deposition noticed by the accompanying deposition notice pursuant to Rule VI of the Committee's rules, to answer each of the questions listed in Attachment A. ~~and to produce the documents and materials listed in Attachment B. A~~ personal appearance will not be required if you provide full and complete ~~answers to the questions in Attachment A in writing in a form consistent~~ with the requirements of 28 U.S.C. 1746 and provide all of the documents ~~and materials listed in Attachment B, by delivering the above answers and~~ materials to Max Richtman at the above Committee room no later than 72 hours ~~in advance of the scheduled return.~~

Hereof fail not, *as you will answer your default under the pains and penalties in such cases made and provided.*

To any committee staff member *to serve and return.*

Given under my hand, by order of the committee, this 24th *day of* February, *in the year of our Lord one thousand nine hundred and* ~~eighty-eight~~

John Melcher

Special
Chairman, Committee on Aging

I made service of the within subpena ____, *19*__

by ____

the within-named ____, *at* ____

at ____ *o'clock* ____ *m., on the* ____ *day of* ____, *19*__

U.S. GOVERNMENT PRINTING OFFICE: 1988 O-198-[illegible]

UNITED STATES OF AMERICA

Congress of the United States

Notice of
Senate Deposition

To Clarence Thomas, Chairman, U.S. Equal Employment Opportunity Commission, Columbia Plaza, Rm. 500, 2401 E Street, N.W. Washington, D.C. 20507 Greeting:

Please take notice that at 10:00 o'clock a.m., on March 11, 1988, at SD-G41, Lloyd Duxbury of the staff of the Special committee on Aging of the Senate of the United States, will take your deposition on oral examination concerning what you may know relative to the subject matters under consideration by said Special committee. The deposition will be taken before a notary public, or before some other officer authorized by local law to administer oaths; it will be taken pursuant to the Special committee's rules, a copy of which are attached.

Given under my hand, by authority vested in me by the Special committee, on February 24, 1988.

John Melcher

ATTACHMENT A

For each of the fiscal years 1984 through 1987, provide from the files, including but not limited to computerized files, of each of the EEOC'S field offices (identified by name of city and state) and EEOC headquarters, the total numbers sought in the following questions. In these questions "ADEA" should be read as referring to ADEA charges or cases, either alone or in conjunction with charges or cases under Title VII and/or EPA.

1. Age Discrimination in Employment Act (ADEA) charges filed.

2. ADEA charge closures:

   a. by negotiated settlements;
   b. by withdrawals with benefits;
   c. by successful conciliations;
   d. by no cause/no violation;
   e. by unsuccessful conciliation;
   f. because of lack of jurisdiction;
   g. after charging party/parties indicated willingness/intention to file suit;
   h. after charging party/parties filed suit;
   i. administratively (Please list totals by each category of administrative closure);
   j. before completion of EEOC investigation.

3. EEOC staff recommendations for ADEA litigation:

   a. approved by the EEOC General Counsel for presentation to the Commission;
   b. disapproved by the EEOC General Counsel for presentation to the Commission.

4. The number of single/multiple party charges and the number of class actions:

   a. recommended for litigation by the EEOC General Counsel and (1) approved by the Commission, (2) disapproved by the Commission;
   b. which, prior to EEOC staff recommendation to the EEOC General Counsel concerning litigation, exceeded:
      (1) the two-year statute of limitations;
      (2) the three-year statute of limitations;
   c. which, prior to EEOC General Counsel recommendation to the Commission concerning litigation, exceeded:
      (1) the two-year statute of limitations;
      (2) the three-year statute of limitations;

5. EEOC lawsuits filed:

   a. involving single/multiple party charges;
   b. class actions;
   c. systemic violations.

6. charges involving the ADEA which were transferred from each of the receiving field offices to other field offices for processing and disposition; provide the reason(s) for transfer of the charge(s); and identify the field office that received the charge(s) and the field office to which the charge(s) was/were transferred.

ATTACHMENT B

1. The audiotape recording of the closed meeting of the Commission on March 16, 1987 in which the Office of General Counsel presented its recommendation for the EEOC to file a direct lawsuit against the Xerox Corporation for allegedly having violated the Age Discrimination in Employment Act.

2. Any and all drafts and the final version of the report on the internal EEOC audit(s) of Systemic Services in the Office of General Counsel conducted in 1987, and any and all memoranda, correspondence and written comments pertaining to the audit report which were generated or received by Systemic Services, the Office of General Counsel, the Office of Legal Counsel, the EEOC personnel who conducted the audit, and the Office of the Chairman.

3. Any and all draft and final versions of memoranda, correspondence and minutes of meetings/telephone conference calls generated and/or received by EEOC Headquarters during the period from the beginning of fiscal year 1984 through March 7, 1988 which pertain to ADEA charges received by EEOC Field Offices and Headquarters that had, or were in danger of, exceeding the two-year statute of limitations and/or the three-year statute of limitations.

4. Any and all draft and final versions of memoranda, correspondence and minutes of meetings/telephone conference calls generated and/or received by EEOC Headquaquarters during the period from the beginning of fiscal year 1984 through March 7, 1988 which pertain to ADEA charge backlog/pending inventory.

JOHN MELCHER, MONTANA, CHAIRMAN
JOHN GLENN, OHIO
LAWTON CHILES, FLORIDA
DAVID PRYOR, ARKANSAS
BILL BRADLEY, NEW JERSEY
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JOHN B. BREAUX, LOUISIANA
RICHARD SHELBY, ALABAMA
HARRY REID, NEVADA
MAX I. RICHTMAN, STAFF DIRECTOR
G. LAWRENCE ATKINS, MINORITY STAFF DIRECTOR
JOHN HEINZ, PENNSYLVANIA
WILLIAM S. COHEN, MAINE
LARRY PRESSLER, SOUTH DAKOTA
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JOHN H. CHAFEE, RHODE ISLAND
DAVE DURENBERGER, MINNESOTA
ALAN K. SIMPSON, WYOMING

United States Senate

SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

February 29, 1988

Hand Delivered by Ronald Slater Kaden on 2/29/88 approx 5:30 pm

Ms. Deborah J. Graham
Director of Communications
and Legislative Affairs
U.S. Equal Employment Opportunity Commission
Columbia Plaza, Room 412
2401 E Street, N.W.
Washington, D.C. 20507

Dear Ms. Graham:

The meeting between members of your Commission staff and staff of this Committee today, the 29th of February, 1988, at 1:00 p.,m., resulted in your request for clarification of Item 4b on Attachment A to the subpoena that the Committee served on Chairman Thomas for his deposition scheduled for March 11, 1988.

Item 4b is intended to cover all ADEA cases that exceeded the two-year and three-year statutes of limitations before there had been an EEOC staff recommendation, regardless of whether or not there subsequently ever was such a recommendation. That is, we are interested in all cases that exceeded the statute of limitations without there having been a staff recommendation at that time.

I trust that this provides you with sufficient guidance on the Committee's intend in Item 4b.

Sincerely,

Max I. Richtman

Max I. Richtman
Staff Director

RECEIVED
FEB 29 1988
EEOC
Office of Communications
Washington, DC

Received by Deborah J. Graham 2/29/88

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF
THE CHAIRMAN

MAR - 2 1988

Honorable John Melcher
Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510-6400

Dear Mr. Chairman:

We are in receipt of the subpoena issued February 24, 1988 by the Special Committee on Aging. Let us assure you that we have every intention of cooperating with your Committee and complying with the subpoena. EEOC staff is already working diligently to gather the information you have requested and we will provide it to you as expeditiously as possible. Should any of the requested data be unobtainable, we will so advise you in writing and give you the reasons.

It is our belief that much of the information sought by the subpoena has already been supplied to the Committee. The information previously submitted to you was gathered from many sources, including files and data bases maintained at Headquarters and in the field. Recent discussions between our respective staffs reveals that, nevertheless, in response to the subpoena, you intend for EEOC to gather and compile the requested information by reviewing all the files and data bases located in our 50 field offices.

While we fully intend to provide all the requested information, to the extent such exists, we are sure you recognize that the manner in which we have been instructed to compile our response is extraordinarily time-consuming and labor intensive. Indeed, the work required may be so extensive as to require us to cease all field operations, except charge intake and required litigation, in order to free our legal, investigative and administrative staffs to research and prepare the requested material by the deadline set forth in the subpoena.

We are concerned that even though we have reassigned nearly every employee in our field offices from their law enforcement duties to the activities necessary to respond to your subpoena, a week-long agency shutdown may not be sufficient for all offices to review their files and locate all the data you seek. Some of our offices may, in fact, need to devote their entire staff to the project for as much as three full weeks in order to ensure compliance. Accordingly, we are requesting a two-week extension of time within which to comply with the subpoena.

Let us reiterate. This Commission is committed to cooperating with your Committee. We would like to resolve this problem expeditiously so that we can get this agency back to its mission, enforcing the law.

We look forward to your prompt response.

Sincerely,

Clarence Thomas
Chairman

R. Gaull Silberman
Vice-Chairman

Tony E. Gallegos
Commissioner

Evan J. Kemp, Jr.
Commissioner

Joy Cherian
Commissioner

JOHN HEINZ, PENNSYLVANIA, Chairman
JOHN GLENN, OHIO
LAWTON CHILES, FLORIDA
DAVID PRYOR, ARKANSAS
BILL BRADLEY, NEW JERSEY
QUENTIN N. BURDICK, NORTH DAKOTA
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WILLIAM S. COHEN, MAINE
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PETE WILSON, CALIFORNIA
PETE V. DOMENICI, NEW MEXICO
JOHN H. CHAFEE, RHODE ISLAND
DAVE DURENBERGER, MINNESOTA
ALAN K. SIMPSON, WYOMING
MARK L. MICHAVILA, STAFF DIRECTOR
G. LAWRENCE ATKINS, MINORITY STAFF DIRECTOR

United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

March 3, 1988

Hand Delivered
by Ronald Kader
on 03/04/88
Approx time
9:08 AM

The Honorable Clarence Thomas
Chairman
The Equal Employment Opportunity Commission
Columbia Plaza, Room 500
2401 E Street, N.W.
Washington, D.C. 20507

Dear Chairman Thomas:

Thank you for your letter dated March 2, 1988, in which you request an extension for submitting a portion of the data and documentation listed in the subpoena served on you on February 24, 1988.

Ronald Kader of the Committee staff has informed me that, according to Deborah Graham of your staff, all of the materials listed in Attachment B of the subpoena will be submitted to the Committee by close of business on March 8, 1988. In the event that these materials are not provided to the Committee by close of business on March 8, 1988, your appearance for deposition on March 11, 1988 will be required in accordance with the subpoena.

In light of your agency's difficulty in assembling the responses to Attachment A of the subpoena, the date for your submitting the answers to Attachment A is extended to March 21, 1988. Should you fail to produce this material by close of business on March 21, 1988, you will be required to appear for deposition at 10:00 a.m. on March 22, 1988. So as to facilitate expeditious receipt of these data by the Committee, please submit your responses to Attachment A as they become available from each of the EEOC's District Offices.

Thank you for your cooperation and assistance.

Sincerely,

John Melcher

John Melcher
Chairman

cc: Vice Chairman Silberman,
Commissioners Gallegos, Kemp,
and Cherian

Received Chairman's Office
2/4/88 Shirley Lara

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

December 23, 1987

Mr. Lloyd Duxbury
Special Committee on Aging
United States Senate
G-41 Dirksen
Washington, D.C. 20510

Dear Mr. Duxbury:

Pursuant to our agreement at the meeting in your offices on December 1, 1987, we are providing the remainder of the data on EEOC's enforcement of the Age Discrimination in Employment Act which you requested and which we are able to compile.

You will note that detailed explanations are provided to clarify each set of data. If you have questions, or require further clarification, please call me or Marcia Sayer at 634-6036.

Sincerely,

Deborah J. Graham
Director of Communications
and Legislative Affairs

cc: Chairman Clarence Thomas

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Office of
General Counsel

December 22, 1987

MEMORANDUM

TO : Deborah Graham
Director
Office of Communications and Legislative Affairs

FROM : William H. Ng
Deputy General Counsel

SUBJECT: Second Senate Aging Committee Data Request

We have prepared the attached Tables I through VI in response to the questions raised by the Senate Aging Committee.

Tables I through V were prepared from the Presentation Memorandum Tracking System maintained by the Office of General Counsel. This data system is primarily a headquarters management tool. Therefore, the data contained in the tables are manual counts of listings of Presentation Memoranda submitted by the District Offices. The tracking system consists of computerized LOTUS data files for FY 1985 through FY 1987; semi-computerized LOTUS data files for FY 1983 and FY 1984, and manual ledger pages for FY 1981 and FY 1982.

The data contained in Table VI were prepared from descriptive listings of suits filed under the ADEA which are released by the Commission.

In most tables, we reference the Commission's Statement of Enforcement Policy. A copy of the published Statement is also attached for the Committee's use.

If you have any questions concerning these data, please contact Mary Pfeiffer at 653-7443.

TABLE I: This table contains the response to question 4.

The staff of the Senate Aging Committee requested statistics on "ADEA LOV's resulting in a EEOC staff recommendation for ADEA litigation; and no EEOC staff recommendation for litigation."

Under the Statement of Enforcement Policy, charges which have resulted in the issuance of a letter of violation and in which conciliation has failed (or where it is clear that conciliation is likely to fail) are submitted to the legal unit of a district office for litigation review. A district office may recommend for or against litigation. Under the Statement of Enforcement of Policy, the General Counsel may or may not recommend that the Commission concur with the recommendation submitted by the district office. Thereafter, the Commission determines whether to initiate litigation.

Table I which shows presentation memoranda recommending for and against litigation will thus provide information on those LOV's, following unsuccessful conciliation, which resulted in a recommendation for or against litigation by the district office.

TABLE I

PRESENTATION MEMORANDA SUBMITTED BY THE DISTRICT OFFICE LEGAL UNITS
ADEA AND ADEA-CONCURRENT RECOMMENDATIONS
(FISCAL YEAR 1981 - FISCAL YEAR 1987)

	1987	1986	1985	1984	1983	1982	1981	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	
RECOMMENDATIONS TO LITIGATE								DATA WERE NOT MAINTAINED BY CLASS/INDIVIDUAL DESIGNATION PRIOR TO FY 1985, THEREFORE FY 1981 - 1984 DATA ARE LISTED AS "BOTH."
INDIVIDUAL	68	102	97	0	0	0	0	
CLASS	56	55	120	0	0	0	0	
BOTH	4	11	1	00	00	00	00	
RECOMMENDATION NOT TO LITIGATE								ALL RECOMMENDATIONS ARE CONSIDERED POSITIVE PRIOR TO THE SEPTEMBER 1984 ADOPTION OF THE STATEMENT OF ENFORCEMENT POLICY.
INDIVIDUAL	37	15	7	0	0	0	0	
CLASS	7	4	5	0	0	0	0	
BOTH	0	0	0	--- SEE SPECIAL NOTE ---				

SPECIAL NOTE: The data contained in this table reflect all Presentation Memoranda received from the District Offices during the applicable Fiscal Year by the Office of General Counsel.

These data include Presentation Memoranda received under the ADEA as well as Presentation Memoranda received concurrently under ADEA and Title VII/EPA. Recommendations to intervene and recommendations for Temporary Restraining Orders are also included.

SOURCE: Equal Employment Opportunity Commission
Office of General Counsel, ATTN
OGC Presentation Memorandum Tracking System
Data as of December 1, 1987
Date Table Last Updated: 11-Dec

TABLE II: This table contains the response to questions 5a and 5b.

It should be recognized that in addition to recommendations forwarded by the Office of General Counsel to the Commission, with a recommendation for or against litigation, certain Presentation Memoranda were 1) withdrawn by the District Office; 2) recommended to be returned to the District Office; 3) settled before submission to the Commission; or 4) consolidated into one recommendation involving multiple Presentation Memoranda (e.g., ADEA-BFOQ Presentation Memoranda against local government consolidated into one suit recommendation against the State and the local governments.)

TABLE II

OFFICE OF GENERAL COUNSEL ACTION ON PRESENTATION MEMORANDA SUBMITTED BY THE DISTRICT OFFICE LEGAL UNITS (FISCAL YEAR 1981 - FISCAL YEAR 1987)

	1987	1986	1985	1984	1983	1982	1981	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	
OGC POSITIVE RECOMMENDATIONS								DATA WERE NOT MAINTAINED BY CLASS/INDIVIDUAL DESIGNATION PRIOR TO FY 1985, THEREFORE, FY 1981 - 1984 DATA ARE LISTED AS "BOTH."
INDIVIDUAL	60	63	57	0	0	0	0	
CLASS	28	31	194	0	0	0	0	
BOTH	3	10	1	70	31	25	76	
OGC NEGATIVE RECOMMENDATIONS								NOTE: PRIOR TO THE STATEMENT OF ENFORCEMENT POLICY, THE GENERAL COUNSEL DID NOT RECOMMEND NEGATIVE SUITS. INSTEAD, THE GENERAL COUNSEL DID NOT SUBMIT THE SUIT TO THE COMMISSION FOR LITIGATION CONSIDERATION.
INDIVIDUAL	29	31	26	0	0	0	0	
CLASS	13	28	28	0	0	0	0	
BOTH	1	5	6	17	24	30	13	
WITHDRAWN, COMBINED WITH ANOTHER PRESENTATION MEMORANDUM, RETURNED TO DISTRICT OFFICE, NOT YET SUBMITTED AND OTHER SIMILAR ACTIONS	10	8	21	2	14	6	3	NOTE: IN FY 1983, THIRTEEN SUITS WERE RETURNED TO THE ORIGINATING OFFICE FOR RECONSIDERATION IN ACCORDANCE WITH OGC'S PROCEDURES FOR RECOMMENDING AND LITIGATING ADEA BFOQ, PUBLIC SAFETY CASES.

SPECIAL NOTE: These data include Presentation Memoranda received under the ADEA as well as Presentation Memoranda received concurrently under ADEA and Title VII/EPA. Recommendations to intervene and recommendations for Temporary Restraining Orders are also included.

Prior to the Statement of Enforcement Policy, the Office of General Counsel did not submit negative recommendations. Instead, the Office of General Counsel unilaterally disapproved recommendations to litigate submitted by the District Offices. These disapprovals were not submitted to the Commission for concurrence.

SOURCE: Equal Employment Opportunity Commission
Office of General Counsel, ATSS
OGC Presentation Memorandum Tracking System
Data as of December 2, 1987
Date Table Last Updated: 21-Dec

TABLE III: This table contains the response to questions 6a(1), 6a(2), 7a(1) and 7(a)2.

This table also provides information on the number of suits approved by the Commission in those instances where the General Counsel recommended against litigation.

For further information about the data shown in this table, please see the Special Notes and marginal comments on the table.

TABLE III-A

PREDETERMINATION RESEARCH RECOMMENDED FOR LITIGATION BY EEOC GENERAL COUNSEL

LITIGATION APPROVED BY THE COMMISSION
(FISCAL YEARS 1981 - 1987)

FISCAL YEAR	1987	1986	1985	1984	1983	1982	1981	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	
INDIVIDUAL	37	66	43	0	0	0	0	DATA WERE NOT MAINTAINED BY CLASS/INDIVIDUAL DESIGNATION PRIOR TO FY 1985. THEREFORE, FY 1981 - 1984 DATA ARE LISTED AS "NONE."
CLASS	19	35	92	0	0	0	0	
NONE	5	19	0	68	30	34	73	

TABLE III-B

LITIGATION DISAPPROVED BY THE COMMISSION
(FISCAL YEARS 1981 - 1987)

FISCAL YEAR	1987	1986	1985	1984	1983	1982	1981	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	
INDIVIDUAL	10	16	7	0	0	0	0	DATA WERE NOT MAINTAINED BY CLASS/INDIVIDUAL DESIGNATION PRIOR TO FY 1985. THEREFORE, FY 1981 - 1984 DATA ARE LISTED AS "NONE."
CLASS	0	0	10	0	0	0	0	
NONE	1	0	0	3	1	1	3	

TABLE III-C

PREDETERMINATION RESEARCH RECOMMENDED NOT TO LITIGATE BY EEOC GENERAL COUNSEL

LITIGATION APPROVED BY THE COMMISSION
(FISCAL YEARS 1981 - 1987)

FISCAL YEAR	1987	1986	1985	1984	1983	1982	1981	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	
INDIVIDUAL	1	1	5	0	0	0	0	DATA WERE NOT MAINTAINED BY CLASS/INDIVIDUAL DESIGNATION PRIOR TO FY 1985. THEREFORE, FY 1981 - 1984 DATA ARE LISTED AS "NONE."
CLASS	0	0	0	0	0	0	0	
NONE	0	0	0	0	0	0	0	

SPECIAL NOTE: The data contained in this table do not reflect all Presentation Memoranda received from the District Office legal units or all presentation memoranda transmitted by the Office of General Counsel to the Commission. Specifically excluded are recommendations made, in accordance with the Commission's Statement of Enforcement Policy, by the General Counsel not to litigate a case which were concurred with by the Commission. Also excluded from this table are (1) those Presentation Memoranda which were not transmitted to the Commission before December 2, 1987, (2) those P.M.'s pending Commission action and (3) those Presentation Memoranda which were withdrawn by either the District Office legal unit or the Office of General Counsel or (4) where recommendation was to return the Presentation Memorandum to the District Office legal unit for further investigation and (5) those Presentation Memoranda disapproved by the General Counsel prior to the Statement of Enforcement Policy.

The information in this table includes recommendations to litigate presented by a District Office and received by the Office of General Counsel as well as recommendations not to litigate presented by a District Office and received by the General Counsel.

These data include Presentation Memoranda received under the ADEA as well as Presentation Memoranda received concurrently under the ADEA and Title VII/EPA. Recommendations to intervene and recommendations for Temporary Restraining Orders are also included.

SOURCE: Equal Employment Opportunity Commission
Office of General Counsel, ADEA
ADEA Presentation Memorandum Tracking System
Data as of December 2, 1987

TABLE IV: This table contains the response to questions 6c(1), 6c(2), 7c(1) and 7c(2).

The two-year and three-year statute of limitations date fields in the 1987 and 1986 Presentation Memorandum Tracking System are not complete. In the FY 1987 file, 31 records do not contain statute of limitations data. Similarly, in the FY 1986 file, 133 records do not contain statute of limitations data. This is not an oversight; instead, these fields were added into the data bases in mid-FY 1987.

Data fields were added in mid-FY 1987, which provided basic statute of limitation data, because, following the Supreme Court's decision in Transworld Airlines v. Hardison, 469 U.S. 111 (1985), the possibility arose that a suit could only be filed under the three year limitations period for willful violations if a court found that a defendant had recklessly disregarded an individual's ADEA rights. Pior to Hardison, courts had held that a willful violation, which permitted suit to be filed under the three year limitations period, occurred whenever a court found that an employer was aware that it might be subject to the ADEA. See Coleman v. Jiffy June Farms, Inc., 458 F.2d 1139, 1142 (5th Cir. 1971), cert. denied, 409 U.S. 948 (1972). This issue has not been settled by the Supreme Court and many courts continue to use the Jiffy June standard for determining willfulness.

Without a factual examination of each case, it is not possible to determine the precise number of cases which may be affected by the two or three year limitations period. Also, without a factual examination of each case, it is not possible to precisely identify the cases where the two or three year limitations period for bringing an EEOC suit has been extended as a result of the one year tolling provision in the ADEA.

TABLE IV

PRESENTATION MEMORANDA RECEIVED BY OFFICE OF GENERAL COUNSEL FROM DISTRICT OFFICE LEGAL UNITS WHICH EXCEEDED THE TWO-YEAR STATUTE OF LIMITATIONS (FISCAL YEARS 1986 AND 1987)

	1987	1986	1985	1984	1983	1982	1981	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	
INDIVIDUAL	27	9	0	0	0	0	0	STATUTE OF LIMITATIONS DATA WERE NOT MAINTAINED PRIOR TO FY 1986.
CLASS	15	4	0	0	0	0	0	
BOTH	0	4	0	0	0	0	0	
STATUTE DATA NOT AVAILABLE	31	133	0	0	0	0	0	

PRESENTATION MEMORANDA RECEIVED BY OFFICE OF GENERAL COUNSEL FROM DISTRICT OFFICE LEGAL UNITS WHICH EXCEEDED THE THREE-YEAR STATUTE OF LIMITATIONS (FISCAL YEARS 1986 AND 1987)

	1987	1986	1985	1984	1983	1982	1981	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	
INDIVIDUAL	5	2	0	0	0	0	0	STATUTE OF LIMITATIONS DATA WERE NOT MAINTAINED PRIOR TO FY 1986.
CLASS	3	0	0	0	0	0	0	
BOTH	0	0	0	0	0	0	0	
STATUTE DATA NOT AVAILABLE	31	133	0	0	0	0	0	

SPECIAL NOTE: The data contained in this table do not reflect all Presentation Memoranda received from the District Office legal units by the Office of General Counsel. Excluded Presentation Memoranda include those for which no statute of limitations data were available.

The information in this table includes recommendations to litigate presented by a District Office and received by the Office of General Counsel as well as recommendations not to litigate presented by a District Office and received by the General Counsel.

These data include Presentation Memoranda received under the ADEA as well as Presentation Memoranda received concurrently under ADEA and Title VII/EPA. Recommendations to intervene and recommendations for Temporary Restraining Orders are also included.

SOURCE: Equal Employment Opportunity Commission
Office of General Counsel, ATSS
OGC Presentation Memorandum Tracking System
Data as of December 3, 1987
Date Table Last Updated: 21-Dec

TABLE V: This table contains the response to questions 6d(1), 6d(2); 7d(1) and 7d(2).

The two-year and three-year statute of limitations date fields in the 1987 and 1986 Presentation Memorandum Tracking System are not complete. In the FY 1987 file, 31 records do not contain statute of limitations data. Similarly, in the FY 1986 file, 133 records do not contain statute of limitations data. This is not an oversight; instead, these fields were added into the data bases in mid-FY 1987.

Data fields were added in mid-FY 1987, which provided basic statute of limitation data, because, following the Supreme Court's decision in Transworld Airlines v. Hardison, 469 U.S. 111 (1985), the possibility arose that a suit could only be filed under the three year limitations period for willful violations if a court found that a defendant had recklessly disregarded an individual's ADEA rights. Pior to Hardison, courts had held that a willful violation, which permitted suit to be filed under the three year limitations period, occurred whenever a court found that an employer was aware that it might be subject to the ADEA. See Coleman v. Jiffy June Farms, Inc., 458 F.2d 1139, 1142 (5th Cir. 1971), cert. denied, 409 U.S. 948 (1972). This issue has not been settled by the Supreme Court and many courts continue to use the Jiffy June standard for determining willfulness.

Without a factual examination of each case, it is not possible to determine the precise number of cases which may be affected by the two or three year limitations period. Also, without a factual examination of each case, it is not possible to precisely identify the cases where the two or three year limitations period for bringing an EEOC suit has been extended as a result of the one year tolling provision in the ADEA.

TABLE V

PRESENTATION MEMORANDUM SUBMITTED BY OFFICE OF GENERAL COUNSEL
FOR COMMISSION CONSIDERATION WHICH EXCEEDED THE TWO-YEAR STATUTE OF LIMITATIONS
(FISCAL YEARS 1986 AND 1987)

FISCAL YEAR	1987	1986	1985	1984	1983	1982	1981	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	
INDIVIDUAL	27	14	0	0	0	0	0	STATUTE OF LIMITATIONS DATA WERE NOT MAINTAINED PRIOR TO FY 1986.
CLASS	14	4	0	0	0	0	0	
BOTH	0	4	0	0	0	0	0	
STATUTE DATA NOT AVAILABLE	31	133	0	0	0	0	0	

PRESENTATION MEMORANDUM SUBMITTED BY OFFICE OF GENERAL COUNSEL
FOR COMMISSION CONSIDERATION WHICH EXCEEDED THE THREE-YEAR STATUTE OF LIMITATIONS
(FISCAL YEARS 1986 AND 1987)

FISCAL YEAR	1987	1986	1985	1984	1983	1982	1981	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	
INDIVIDUAL	6	1	0	0	0	0	0	STATUTE OF LIMITATIONS DATA WERE NOT MAINTAINED PRIOR TO FY 1986.
CLASS	5	1	0	0	0	0	0	
BOTH	0	2	0	0	0	0	0	
STATUTE DATA NOT AVAILABLE	31	133	0	0	0	0	0	

SPECIAL NOTE: The data contained in this table do not reflect all Presentation Memoranda received from the District Office legal units by the Office of General Counsel. Excluded Presentation Memoranda include those not submitted to the Commission by December 3, 1987, and those for which no information on the statute of limitations was available.

The information in this table include recommendations to litigate presented by a District Office and received by the Office of General Counsel as well as recommendations not to litigate presented by a District Office and received by the General Counsel.

These data include Presentation Memoranda received under the ADEA as well as Presentation Memoranda received concurrently under ADEA and Title VII/EPA. Recommendations to intervene and recommendations for Temporary Restraining Orders are also included.

SOURCE: Equal Employment Opportunity Commission
Office of General Counsel, ATTN
OGC Presentation Memorandum Tracking System
Data as of December 3, 1987
Date Table Last Updated: 21-Dec

TABLE VI: Response to questions 6e(1-4) and 7e(1-4)

The Office of General Counsel's tracking systems do not indicate the date a charge was filed.

As we explained to the Committee staff, once the litigation component of the Charge Data System is implemented, we shall be able to provide this information. In order to provide a reasonable approximation of the data requested by Committee staff in questions 6e(1-4) and 7e(1-4), we used the Fiscal Year the charge was filed (indicated by the middle digits of the charge number) and compared this year to the Fiscal Year the Presentation Memorandum was approved by the Commission.

The entry "Same Fiscal Year" refers to a suit approved by the Commission in the same Fiscal Year in which the charge was filed (as indicated by the middle two digits of the charge number.)

Similarly, the entry "FY-1" corresponds to a suit approved in the year following the charge (about 300 days); "FY-2" corresponds to a charge filed two years before the suit was approved (730 days); and "F-3" corresponds to a suit approved three years after the charge was filed (1,095 days.) We were unable to approximate a response to the Committee staff request for 500 day information.

Further, as noted above and in the LTS manual provided to Committee staff during our meeting, the charge number is not indicated in the LTS file - it is superceded by the Civil Action Number. Thus, we used the date the suit was approved by the Commission, not the date the suit was actually filed, to prepare this table.

TABLE VI

SUBMISSION OF PRESENTATION MEMORANDA BY DISTRICT OFFICE LEGAL UNITS
TO THE OFFICE OF GENERAL COUNSEL, FY 1981 - FY 1987
(BASED ON CHARGE NUMBER)

FISCAL YEAR	1987	1986	1985	1984	1983	1982	1981	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	
INDIVIDUAL								
Base Fiscal Year	6	3	10	0	0	0	0	DATA WERE NOT MAINTAINED BY CLASS/INDIVIDUAL DESIGNATION PRIOR TO FY 1985, THEREFORE, FY 1981 - 1984 DATA ARE LISTED AS "BOTH."
Fiscal Year -1	29	52	43	0	0	0	0	
Fiscal Year -2	44	50	26	0	0	0	0	
Fiscal Year -3	5	0	8	0	0	0	0	
Fiscal Year -4	0	4	0	0	0	0	0	

FISCAL YEAR	1987	1986	1985	1984	1983	1982	1981	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	
CLASS								
Base Fiscal Year	3	2	26	0	0	0	0	DATA WERE NOT MAINTAINED BY CLASS/INDIVIDUAL DESIGNATION PRIOR TO FY 1985, THEREFORE, FY 1981 - 1984 DATA ARE LISTED AS "BOTH."
Fiscal Year -1	10	29	54	0	0	0	0	
Fiscal Year -2	23	22	43	0	0	0	0	
Fiscal Year -3	10	3	12	0	0	0	0	
Fiscal Year -4	0	4	0	0	0	0	0	

FISCAL YEAR	1987	1986	1985	1984	1983	1982	1981	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	
BOTH/INFORMATION NOT AVAILABLE								
Base Fiscal Year	0	1	0	0	9	7	10	DATA WERE NOT MAINTAINED BY CLASS/INDIVIDUAL DESIGNATION PRIOR TO FY 1985, THEREFORE, FY 1981 - 1984 DATA ARE LISTED AS "BOTH."
Fiscal Year -1	1	9	0	41	36	17	51	
Fiscal Year -2	3	4	0	30	18	22	33	
Fiscal Year -3	0	0	0	7	5	14	0	
Fiscal Year -4	0	0	0	1	1	0	0	
Fiscal Year -5	0	0	0	1	0	0	0	

SPECIAL NOTE: These data reflect the Fiscal Year in which the lead charge was filed with the Commission, as displayed in the field, "Charge Number" in the Office of General Counsel Presentation Memorandum Tracking System.

SOURCE: Equal Employment Opportunity Commission
Office of General Counsel, ATSS
OGC Presentation Memorandum Tracking System
Data as of December 2, 1987
Data Table Last Updated: 21-Dec

TABLE VII: This table contains the response to question 8.

The data on cases filed were provided to the Committee in September. We have updated our previous response by including fourth quarter FY 1987 data.

TABLE VII

TOTAL NUMBER OF ADEA AND ADEA/CONCURRENT SUITS FILED BY FISCAL YEAR, FY 1981 - FY 1987**

	1987**	1986	1985	1984	1983	1982	1981
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
ADEA SUITS FILED	71	95	96	63	33	26	89
INDIVIDUAL SUITS	49	45	25	14	10	9	42
CLASS SUITS	22	50	71	49	23	17	47
ADEA/TITLE VII SUITS FILED	7	22	1	1	2	0	0
INDIVIDUAL SUITS	6	10	1	0	1	0	0
CLASS SUITS	1	12	0	1	1	0	0
ADEA/TITLE VII/EPA SUITS FILED	0	1	2	0	0	0	1
INDIVIDUAL SUITS	0	1	1	0	0	0	1
CLASS SUITS	0	0	1	0	0	0	0
TOTAL SUITS FILED	78	118	99	64	35	26	90
INDIVIDUAL SUITS	55	56	27	14	11	9	43
CLASS SUITS	23	62	72	50	24	17	47

** Note that the data for FY 1987 are preliminary.

SOURCE: Descriptive Lists of Suits Filed Under the ADEA, FY 1981 through FY 1987
Administrative and Technical Services Staff
Office of General Counsel
Equal Employment Opportunity Commission
Data Table Last Updated: 12/21/87

Response to questions 6b(1); 6b(2); 7b(1) and 7b(2).

The computerized and manual tracking systems maintained by the Office of General Counsel do not contain information indicating whether the Commission has overturned a prior approval or disapproval of litigation between Fiscal Year 1981 and Fiscal Year 1987. Our records, as shown in Table I, do show whether the Commission has disagreed with recommendations to litigate as well as recommendations not to litigate submitted by the General Counsel.

STATEMENT OF ENFORCEMENT POLICY

Adopted September 11, 1984

The Commission believes that two critical features of an effective law enforcement program are certainty and predictability of enforcement in those situations where the agency has reason to believe that a law it enforces has been violated. Those critical features have never been fully developed by this law enforcement agency. The Commission believes that Commission employees, charging parties and respondents should understand that the Commission has adopted the goal of pursuing through litigation each case in which merit has been found and conciliation has failed. The achievement of that degree of certainty and predictability in enforcement requires a unity of purpose on the part of all segments of the Agency. The purpose of this memorandum is to articulate this enforcement policy and to direct that you develop those mechanisms necessary to more effectively integrate and allocate the Commission's legal and investigative resources so that this agency can achieve that degree of certainty and predictability in enforcement which will more directly carry out our law enforcement responsibilities.

In support of this goal, the Commission has determined that every case in which the District Director has found that one of our statutes has been violated should be submitted to the Commission for litigation consideration if attempts at conciliation fail. In the implementation of this law enforcement policy, the Commission believes that the following points need to be clearly understood:

(1) The Commission will review for litigation consideration all reasonable cause determinations and all letters of violation where conciliation has failed;

(2) The reasonable cause determination or letter of violation requires input by the Agency's legal staff before the determination is made;

(3) The District Director is responsible for issuing all letters of determination and letters of violation. In so doing, the District Director will give serious consideration to the analysis, guidance and recommendation of all those providing input including the Regional Attorney;

(4) One finding of discrimination is no more "worthy" of litigation than any other finding of discrimination. Accordingly, the Commission believes that an enforcement philosophy or operational system which attempts to determine which among several meritorious findings is "worthy" of governmental resources is inconsistent with our statutory obligations. The National Litigation Plan is designed to focus attention on additional areas of special concern for litigation consideration. It should not be interpreted as a limitation on the consideration of meritorious litigation proposals which may fall outside the defined parameters of the National Litigation Plan.

The Commission, in support of these principles, directs the Offices of the General Counsel and Program Operations to develop jointly, for approval by the Commission, the appropriate administrative mechanisms which will implement the following procedures:

(1) The advice of attorneys should be sought, as appropriate, during the investigative process for all cases.

(2) Before the issuance of a reasonable cause determination or letter of violation, the District Director shall obtain from the Regional Attorney an analysis of whether the evidence supports such a finding in accordance with the following standard:

> It is more likely than not that the Charging Party(s) and or members of a class were discriminated against because of a basis prohibited by the statutes enforced by the Equal Employment Opportunity Commission. The likelihood that discrimination occurred is assessed on evidence that establishes, under the appropriate legal theory, a *prima facie* case. If the Respondent has provided a viable defense, evidence of pretext should be assessed.

If the Regional Attorney is of the view that the evidence does not support such a reasonable cause finding or letter of violation, the Regional Attorney shall specify in writing to the District Director the reasons therefor and those reasons shall be transmitted to the General Counsel for review following failure of conciliation.

(3) The District Director, after considering the Regional Attorney's recommendation, shall:

a. Issue a determination of reasonable cause or letter of violation; or
b. Obtain additional evidence; or
c. Issue a finding of no reasonable cause or other appropriate closure.

(4) Following the failure of conciliation in every case where a reasonable cause determination or letter of violation has been issued, the District Director shall forward the case to the Regional Attorney. The Regional Attorney shall then forward such information as required by the General Counsel to the Office of General Counsel (Headquarters) for review and submission of a presentation memorandum to the Commission, through the Executive Secretariat. The General Counsel's submission shall include:

a. The General Counsel's recommendation and any additional legal analysis;
b. The Letter of Determination or Letter of Violation;
c. The Investigative Memorandum;
d. The Respondent Position Statement (or an indication that such a Position Statement does not exist);
e. Notice of Conciliation Failure where applicable; and
f. Copy of the proposed complaint.

The Commission expects that each required analysis shall be succinct and completed in an expeditious manner.

Please ensure that all employees receive a copy of this Memorandum.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

September 8, 1987

The Honorable John Melcher
Chairman
Senate Special Committee on Aging
Washington, D.C. 20510

Dear Mr. Chairman:

Relative to your letter of September 3, 1987 to Chairman Clarence Thomas requesting information and/or response to 59 questions, I am providing you with the following summary as to the status of EEOC's response.

The Office of Program Operations provided statistical data for questions 1 through 11 for FY 85, FY 86 and FY 87. Prior to FY 85, statistical data was maintained by EEOC's Information System Services which will be providing where possible, the data from FY 81 through 84.

Questions 35 through 40 and questions 51 through 58 remain unanswered. Wherever possible, we will supply the remaining data through my office as soon as possible.

Responses to the following questions are attached: questions 1 through 11, questions 13 through 34 and questions 41 through 50.

I will be certain to see that the incomplete information is forwarded to your office as expeditiously as possible.

Sincerely,

Deborah J. Graham

Deborah J. Graham
Director
Office of Communications and
Legislative Affairs

cc: Chairman Clarence Thomas

Attachments

Response to questions on Enforcement of the Age Discrimination in Employment Act from the Senate Special Committee on Aging:

1. ADEA charges filed, FY 85 - 16,784, FY 86 - 17, 443, FY 87 - 10,886 (FY 87 through the third quarter).

2., 3 and 4. Data on 7 (d) conciliation attempts (We have interpreted your question to mean this.) Data on unsuccessful 7(d) conciljations was maintained until FY 85 when the EEOC Compliance Manual discontinued any reference to this type of closure. No data is known to exist which would identify a settlement as the result of a 7 (d) attampt. No data is maintained on the extent of the investigation at the time of a settlement.

5. and 6. OPO does not maintain data on the specific type of administrative closure nor on the extent of investigation at the time of closure.

7. OPO does not maintain data on investigations after unsuccessful 7(d) conciliation attempts.

8. We were not able to interpret this question.

9. Data on successful ADEA consilaitions from FY 85 to June 30, 1987: FY 85 - 101, FY 86 - 146, FY 87 - 59.

10. Unsuccessful ADEA conciliations FY 85 to June 30, 1987. See source for question 9. FY 85 - 449, FY 86 - 344, FY 87 - 438.

11 and 13. OPO does not maintain data on whether a charge is individual or class. Data on cause not maintained in OPO. Following figures represent the total of successful and unsuccessful conciliations. FY 85 - 550, FY 86 - 490, FY 87 - 497.

12. OPO does not maintain data on whether a charge is individual or class.

30. Successful conciliations of concurrent Title VII/ADEA charges. FY 85 - 10, FY 86 - 11, FY 87 - 5.

31. Concurrent Title VII/ADEA no cause. FY 85 - 1, 850, FY 86 - 2,258, FY 87 - 1,196

32. Concurrent Title VII/ADEA unsuccessful conciliations. FY 85 - 103, FY 86 - 40, FY 87 - 23.

33. and 34. Closures for lack of jurisdiction. FY 85 - 572, FY 86 - 451, data not yet available for FY 87.

41. and 42. Don't understand question.

QUESTIONS 14, 15, 16 and 17

These questions were interpreted to request the number of Presentation Memoranda submitted by the District Office legal units.

The responses to Questions 14, 15, 16 and 17 for FY 1981 through FY 1986 are contained in attached Table A.

The responses for FY 1987 are contained in Table A-1.

In Fiscal Year 1986, approximately one-half of the class suits filed under the ADEA challenged mandatory retirement age and maximum hiring age policies of public safety employers.

The number of such cases, and thus the number of class ADEA cases, declined in FY 1987 because the 1986 Amendments to the ADEA authorized continuation of most such mandatory retirement and maximum hiring age policies until 1991.

In FY 1987, the data reflect only the first three quarters of the Fiscal Year or through September 3, 1987, as specified.

TABLE A

PRESENTATION MEMORANDA SUBMITTED BY THE DISTRICT OFFICE LEGAL UNITS
ADEA RECOMMENDATIONS ONLY

	1986	1985	1984	1983	1982	1981
	(1)	(2)	(3)	(4)	(5)	(6)
RECOMMENDATIONS TO LITIGATE	165	206	80	67	60	93
INDIVIDUAL	91	72	N/A	N/A	N/A	N/A
CLASS	57	134	N/A	N/A	N/A	N/A
BOTH	15	0	80	67	60	93
N/A	2	0	N/A	N/A	N/A	N/A
RECOMMENDATION NOT TO LITIGATE	16	12	////////////////////////////////////			
INDIVIDUAL	11	8	////////////////////////////////////			
CLASS	5	4	////////////////////////////////////			
BOTH	0	0	////////////////////////////////////			
N/A	0	0	////////////////////////////////////			
TOTAL RECOMMENDATIONS	181	218	80	67	60	93
INDIVIDUAL	102	80	N/A	N/A	N/A	N/A
CLASS	62	138	N/A	N/A	N/A	N/A
BOTH	15	0	80	67	60	93
N/A	2	0	N/A	N/A	N/A	N/A

PERCENTAGE CALCULATIONS

RECOMMENDATIONS TO LITIGATE	91.2%	94.5%	100.0%	100.0%	100.0%	100.0%
INDIVIDUAL	55.2%	35.0%	N/A	N/A	N/A	N/A
CLASS	34.5%	65.0%	N/A	N/A	N/A	N/A
BOTH	9.1%	0.0%	N/A	N/A	N/A	N/A
N/A	1.2%	0.0%	100.0%	100.0%	100.0%	100.0%
RECOMMENDATION NOT TO LITIGATE	8.8%	5.5%	N/A	N/A	N/A	N/A
INDIVIDUAL	68.8%	66.7%	N/A	N/A	N/A	N/A
CLASS	31.3%	33.3%	N/A	N/A	N/A	N/A
BOTH	0.0%	0.0%	N/A	N/A	N/A	N/A
N/A	0.0%	0.0%	N/A	N/A	N/A	N/A
TOTAL RECOMMENDATIONS	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
INDIVIDUAL	56.4%	36.7%	N/A	N/A	N/A	N/A
CLASS	34.3%	63.3%	N/A	N/A	N/A	N/A
BOTH	8.3%	0.0%	N/A	N/A	N/A	N/A
N/A	1.1%	0.0%	100.0%	100.0%	100.0%	100.0%

Equal Employment Opportunity Commission
Office of General Counsel, ATSS
September 8, 1987

DATA WERE NOT MAINTAINED BY CLASS/INDIVIDUAL DESIGNATION PRIOR TO FY 1985, THEREFORE FY 1981 - 1984 DATA ARE LISTED AS "BOTH."

ALL RECOMMENDATIONS ARE CONSIDERED POSITIVE PRIOR TO THE SEPTEMBER 1984 ADOPTION OF THE STATEMENT OF ENFORCEMENT POLICY.

THESE DATA INCLUDE ALL IDENTIFIABLE TRO'S AND PR ACTIONS; HOWEVER, THEY DO NOT INCLUDE THOSE SUITS RECOMMENDED CONCURRENTLY UNDER MORE THAN ONE STATUTE.

TABLE A-1

PRESENTATION MEMORANDA SUBMITTED BY THE DISTRICT OFFICE LEGAL UNITS
ADEA RECOMMENDATIONS ONLY
FY 1987 DATA AS OF SEPTEMBER 3, 1987

	1987 (1)
RECOMMENDATIONS TO LITIGATE	82
INDIVIDUAL	47
CLASS	32
BOTH	3
N/A	0
RECOMMENDATION NOT TO LITIGATE	18
INDIVIDUAL	12
CLASS	6
BOTH	0
N/A	0
TOTAL RECOMMENDATIONS	100
INDIVIDUAL	59
CLASS	38
BOTH	3
N/A	0

THESE DATA INCLUDE ALL IDENTIFIABLE TRO'S AND PR ACTIONS; HOWEVER, THEY DO NOT INCLUDE THOSE SUITS RECOMMENDED CONCURRENTLY UNDER MORE THAN ONE STATUTE.

PERCENTAGE CALCULATIONS

RECOMMENDATIONS TO LITIGATE	82.0%
INDIVIDUAL	57.3%
CLASS	39.0%
BOTH	3.7%
N/A	0.0%
RECOMMENDATION NOT TO LITIGATE	18.0%
INDIVIDUAL	66.7%
CLASS	33.3%
BOTH	0.0%
N/A	0.0%
TOTAL RECOMMENDATIONS	100.0%
INDIVIDUAL	59.0%
CLASS	38.0%
BOTH	3.0%
N/A	0.0%

Equal Employment Opportunity Commission
Office of General Counsel, ATSS
September 9, 1987

QUESTIONS 18, 19, 20 and 21

These questions were interpreted to request the number of General Counsel recommendations (positive and negative) to the Commission.

SPECIAL NOTE: Prior to enactment of the the Statement of Enforcement Policy (September 1984), the General Counsel did not submit negative recommendations to the Commission. Instead, the General Counsel did not submit the case for consideration by the Commission.

In order to provide continuity of the data, we have not used the General Counsel's recommendation, by Fiscal Year; but, rather, we have used the Fiscal Year in which the PM was received from the District Office.

The responses to Questions 18, 19, 20 and 21 for FY 1981 through FY 1986 are contained in attached Table B.

The responses for FY 1987 are contained in Table B-1.

In Fiscal Year 1986, approximately one-half of the class suits filed under the ADEA challenged mandatory retirement age and maximum hiring age policies of public safety employers.

The number of such cases, and thus the number of class ADEA cases, declined in FY 1987 because the 1986 Amendments to the ADEA authorized continuation of most such mandatory retirement and maximum hiring age policies until 1991.

In FY 1987, the data reflect only the first three quarters of the Fiscal Year or through September 3, 1987, as specified.

TABLE B

OFFICE OF GENERAL COUNSEL ACTION ON POSITIVE PRESENTATION MEMORANDA
SUBMITTED BY THE DISTRICT OFFICE LEGAL UNITS
ADEA RECOMMENDATIONS ONLY

	1986	1985	1984	1983	1982	1981
	(1)	(2)	(3)	(4)	(5)	(6)
OGC POSITIVE RECOMMENDATIONS	113	149	68	30	28	53
INDIVIDUAL	74	51	N/A	N/A	N/A	N/A
CLASS	28	98	N/A	N/A	N/A	N/A
BOTH	11	0	68	30	28	53
OGC NEGATIVE RECOMMENDATIONS	48	31	15	23	27	10
INDIVIDUAL	17	17	N/A	N/A	N/A	N/A
CLASS	25	14	N/A	N/A	N/A	N/A
BOTH	6	0	15	23	27	10
OGC RECOMMEND RETURN TO DO				13	1	3
INDIVIDUAL	-	-	-	N/A	N/A	N/A
CLASS	-	-	-	N/A	N/A	N/A
BOTH	-	-	-	13	1	3
TOTAL, ALL ACTIONS	161	180	83	66	56	66
	PERCENTAGE CALCULATIONS					
OGC POSITIVE RECOMMENDATIONS	70.2%	82.8%	81.9%	45.5%	50.0%	80.3%
INDIVIDUAL	65.5%	34.2%	N/A	N/A	N/A	N/A
CLASS	24.8%	65.8%	N/A	N/A	N/A	N/A
BOTH	9.7%	0.0%	100.0%	100.0%	100.0%	100.0%
OGC NEGATIVE RECOMMENDATIONS	29.8%	17.2%	18.1%	34.8%	48.2%	15.2%
INDIVIDUAL	35.4%	54.8%	N/A	N/A	N/A	N/A
CLASS	52.1%	45.2%	N/A	N/A	N/A	N/A
BOTH	12.5%	0.0%	100.0%	100.0%	100.0%	100.0%
OGC RECOMMEND RETURN TO DO	N/A	N/A	N/A	19.7%	1.8%	4.5%
INDIVIDUAL	N/A	N/A	N/A	N/A	N/A	N/A
CLASS	N/A	N/A	N/A	N/A	N/A	N/A
BOTH	N/A	N/A	N/A	100.0%	100.0%	100.0%

Equal Employment Opportunity Commission
Office of General Counsel, ATSS
September 8, 1987

Date Table Last Updated: 09/08/87

DATA WERE NOT MAINTAINED BY CLASS/INDIVIDUAL DESIGNATION PRIOR TO FY 1985, THEREFORE, FY 1981 - 1984 DATA ARE LISTED AS "BOTH."

NOTE: PRIOR TO THE STATEMENT OF ENFORCEMENT POLICY, THE GENERAL COUNSEL DID NOT RECOMMEND NEGATIVE SUITS. INSTEAD, THE GENERAL COUNSEL DID NOT SUBMIT THE SUIT TO THE COMMISSION FOR LITIGATION CONSIDERATION.

NOTE: IN FY 1983, THIRTEEN SUITS WERE RETURNED TO THE ORIGINATING OFFICE FOR RECONSIDERATION IN ACCORDANCE WITH OGC'S PROCEDURES FOR RECOMMENDING AND LITIGATING ADEA BFOQ, PUBLIC SAFETY CASES.

TABLE B-1

OFFICE OF GENERAL COUNSEL ACTION ON POSITIVE PRESENTATION MEMORANDA
SUBMITTED BY THE DISTRICT OFFICE LEGAL UNITS
ADEA RECOMMENDATIONS ONLY
AS OF SEPTEMBER 3, 1987

	1987 (1)
OGC POSITIVE RECOMMENDATIONS	56
INDIVIDUAL	31
CLASS	23
BOTH	2
OGC NEGATIVE RECOMMENDATIONS	16
INDIVIDUAL	10
CLASS	5
BOTH	1
OGC RECOMMEND RETURN TO DO	
INDIVIDUAL	-
CLASS	-
BOTH	-
TOTAL, ALL ACTIONS	72
PERCENTAGE CALCULATIONS	
OGC POSITIVE RECOMMENDATIONS	77.8%
INDIVIDUAL	55.4%
CLASS	41.1%
BOTH	3.6%
OGC NEGATIVE RECOMMENDATIONS	22.2%
INDIVIDUAL	62.5%
CLASS	31.3%
BOTH	6.3%
OGC RECOMMEND RETURN TO DO	N/A
INDIVIDUAL	N/A
CLASS	N/A
BOTH	N/A

Equal Employment Opportunity Commission
Office of General Counsel, ATSS
September 8, 1987

QUESTIONS 22, 23, 24 and 25

These questions were interpreted to request the number of Suits approved/disapproved by the Commission.

SPECIAL NOTE: In order to provide continuity of the data, we have not used the Commission's vote, by Fiscal Year; but, rather, we have used the Fiscal Year in which the PM was received from the District Office.

The responses to Questions 22, 23, 24 and 25 for FY 1981 through FY 1986 are contained in attached Table C.

The responses for FY 1987 are contained in Table C-1.

In Fiscal Year 1986, approximately one-half of the class suits filed under the ADEA challenged mandatory retirement age and maximum hiring age policies of public safety employers.

The number of such cases, and thus the number of class ADEA cases, declined in FY 1987 because the 1986 Amendments to the ADEA authorized continuation of most such mandatory retirement and maximum hiring age policies until 1991.

In FY 1987, the data reflect only the first three quarters of the Fiscal Year or through September 3, 1987, as specified.

NOTE: THIS TABLE IS STILL IN PRODUCTION IN OGC. IT WILL BE AVAILABLE 9/9/87

QUESTIONS 26, 27, 28 and 29

The Office of General Counsel is working on the response to these questions.

In Fiscal Year 1986, approximately one-half of the class suits filed under the ADEA challenged mandatory retirement age and maximum hiring age policies of public safety employers.

The number of such cases, and thus the number of class ADEA cases, declined in FY 1987 because the 1986 Amendments to the ADEA authorized continuation of most such mandatory retirement and maximum hiring age policies until 1991.

In FY 1987, the data reflect only the first three quarters of the Fiscal Year or through September 3, 1987, as specified.

QUESTIONS 43 and 44

These questions were interpreted to request the number of class and individual suits filed under the ADEA.

The responses to Questions 43 and 44 for FY 1981 through FY 1986 are contained in attached Table D.

The responses for FY 1987 are contained in attached Table D-1.

In Fiscal Year 1986, approximately one-half of the class suits filed under the ADEA challenged mandatory retirement age and maximum hiring age policies of public safety employers.

The number of such cases, and thus the number of class ADEA cases, declined in FY 1987 because the 1986 Amendments to the ADEA authorized continuation of most such mandatory retirement and maximum hiring age policies until 1991.

In FY 1987, the data reflect only the first three quarters of the Fiscal Year or through September 3, 1987, as specified.

TABLE D

TOTAL NUMBER OF ADEA AND ADEA/CONCURRENT SUITS FILED
BY FISCAL YEAR, FY 1981 - FY 1986

	1986	1985	1984	1983	1982	1981
	(1)	(2)	(3)	(4)	(5)	(6)
ADEA SUITS FILED	95	96	63	33	26	89
INDIVIDUAL SUITS	45	25	14	10	9	42
CLASS SUITS	50	71	49	23	17	47
ADEA/TITLE VII SUITS FILED	22	1	1	2	0	0
INDIVIDUAL SUITS	10	1	0	1	0	0
CLASS SUITS	12	0	1	1	0	0
ADEA/TITLE VII/EPA SUITS FILED	1	2	0	0	0	1
INDIVIDUAL SUITS	1	1	0	0	0	1
CLASS SUITS	0	1	0	0	0	0
TOTAL ADEA AND ADEA-CONCURRENT SUITS FILED	118	99	64	35	26	90
INDIVIDUAL SUITS	56	27	14	11	9	43
CLASS SUITS	62	72	50	24	17	47

PERCENTAGE CALCULATIONS

	1986	1985	1984	1983	1982	1981
	(1)	(2)	(3)	(4)	(5)	(6)
ADEA SUITS FILED	80.51%	96.97%	98.44%	94.29%	100.00%	98.89%
INDIVIDUAL SUITS	47.37%	26.04%	22.22%	30.30%	34.62%	47.19%
CLASS SUITS	52.63%	73.96%	77.78%	69.70%	65.38%	52.81%
ADEA/TITLE VII SUITS FILED	18.64%	1.01%	1.56%	5.71%	0.00%	0.00%
INDIVIDUAL SUITS	45.45%	100.00%	0.00%	50.00%	N/A	N/A
CLASS SUITS	54.55%	0.00%	100.00%	50.00%	N/A	N/A
ADEA/TITLE VII/EPA SUITS FILED	0.85%	2.02%	0.00%	0.00%	0.00%	1.11%
INDIVIDUAL SUITS	100.00%	50.00%	N/A	N/A	N/A	100.00%
CLASS SUITS	0.00%	50.00%	N/A	N/A	N/A	0.00%
TOTAL SUITS FILED	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
INDIVIDUAL SUITS	47.46%	27.27%	21.88%	31.43%	34.62%	47.78%
CLASS SUITS	52.54%	72.73%	78.13%	68.57%	65.38%	52.22%

SOURCE: Descriptive Lists of Suits Filed Under the ADEA, FY 1981 through FY 1985
Administrative and Technical Services Staff
Office of General Counsel
Equal Employment Opportunity Commission

TABLE D-1

TOTAL NUMBER OF ADEA AND ADEA/CONCURRENT SUITS FILED
FY 1987 (AS OF JUNE 30, 1987)

	1987
	(1)
ADEA SUITS FILED	46
INDIVIDUAL SUITS	28
CLASS SUITS	16
ADEA/TITLE VII SUITS FILED	2
INDIVIDUAL SUITS	1
CLASS SUITS	1
ADEA/TITLE VII/EPA SUITS FILED	0
INDIVIDUAL SUITS	0
CLASS SUITS	0
TOTAL ADEA AND ADEA-CONCURRENT SUITS FILED	48
INDIVIDUAL SUITS	29
CLASS SUITS	17

PERCENTAGE CALCULATIONS

	1986
	(1)
ADEA SUITS FILED	95.83%
INDIVIDUAL SUITS	60.87%
CLASS SUITS	34.78%
ADEA/TITLE VII SUITS FILED	4.17%
INDIVIDUAL SUITS	50.00%
CLASS SUITS	50.00%
ADEA/TITLE VII/EPA SUITS FILED	0.00%
INDIVIDUAL SUITS	N/A
CLASS SUITS	N/A
TOTAL SUITS FILED	100.00%
INDIVIDUAL SUITS	60.42%
CLASS SUITS	35.42%

Equal Employment Opportunity Commission
Office of General Counsel, ATSS

QUESTIONS 45 and 46

These questions were interpreted to request the number of class and individual suits filed concurrently under more than one statute.

The responses to Questions 45 and 46 for FY 1981 through FY 1986 are contained in attached Table D.

The responses for FY 1987 are contained in Attached Table D-1.

In Fiscal Year 1986, approximately one-half of the class suits filed under the ADEA challenged mandatory retirement age and maximum hiring age policies of public safety employers.

The number of such cases, and thus the number of class ADEA cases, declined in FY 1987 because the 1986 Amendments to the ADEA authorized continuation of most such mandatory retirement and maximum hiring age policies until 1991.

In FY 1987, the data reflect only the first three quarters of the Fiscal Year or through September 3, 1987, as specified.

QUESTION 47

SPECIAL COMMENT: Complete data are available only for FY 1986, the first year in which the 2-year vs. 3-year limitations period became a problem because of Court decisions.

RESPONSE: 31

NOTE: Prior to Fiscal Year 1986, it had been standard practice to rely on the three-year statute of limitations for willful violations because courts had held that a willful violation for limitation purposes occurs whenever a court finds that an employer was aware that it might be subject to the ADEA. See Coleman v. Jiffy June Farms, Inc., 458 F.2d 1139, 1142 (5th Cir., 1971), cert denied, 409 U.S. 948 (1972). However, following the Supreme Court's decision in Trans World Airlines, Inc. v. Thurston, 469 U.S. 111 (1985), the possibility arose that the standard for determining willfulness for limitations purposes would be the same as the standard for determining willfulness for liquidated damages purposes. This issue has not yet been resolved by the Supreme Court and many courts of appeals still use the Jiffy June rule for determining willfulness.

For reasons of prudence and sound management, however, the Commission and the Office of General Counsel have continuously directed field staff to recommend and to file ADEA cases prior to the expiration of the two-year statute of limitations for non-willful violations.

QUESTION 48

SPECIAL COMMENT: Complete data are available only for FY 1986, the first year in which the 2-year vs. 3-year limitations period became a problem because of Court decisions.

RESPONSE: 35

NOTE: Prior to Fiscal Year 1986, it had been standard practice to rely on the three-year statute of limitations for willful violations because courts had held that a willful violation for limitation purposes occurs whenever a court finds that an employer was aware that it might be subject to the ADEA. See Coleman v. Jiffy June Farms, Inc., 458 F.2d 1139, 1142 (5th Cir., 1971), cert denied, 409 U.S. 948 (1972). However, following the Supreme Court's decision in Trans World Airlines, Inc. v. Thurston, 469 U.S. 111 (1985), the possibility arose that the standard for determining willfulness for limitations purposes would be the same as the standard for determining willfulness for liquidated damages purposes. This issue has not yet been resolved by the Supreme Court and many courts of appeals still use the Jiffy June rule for determining willfulness.

For reasons of prudence and sound management, however, the Commission and the Office of General Counsel have continuously directed field staff to recommend and to file ADEA cases prior to the expiration of the two-year statute of limitations for non-willful violations.

QUESTION 49

SPECIAL COMMENT: Complete data are available only for FY 1986, the first year in which the 2-year vs. 3-year limitations period became a problem because of Court decisions.

RESPONSE: 3

NOTE: Prior to Fiscal Year 1986, it had been standard practice to rely on the three-year statute of limitations for willful violations because courts had held that a willful violation for limitation purposes occurs whenever a court finds that an employer was aware that it might be subject to the ADEA. See Coleman v. Jiffy June Farms, Inc., 458 F.2d 1139, 1142 (5th Cir., 1971), cert denied, 409 U.S. 948 (1972). However, following the Supreme Court's decision in Trans World Airlines, Inc. v. Thurston, 469 U.S. 111 (1985), the possibility arose that the standard for determining willfulness for limitations purposes would be the same as the standard for determining willfulness for liquidated damages purposes. This issue has not yet been resolved by the Supreme Court and many courts of appeals still use the Jiffy June rule for determining willfulness.

For reasons of prudence and sound management, however, the Commission and the Office of General Counsel have continuously directed field staff to recommend and to file ADEA cases prior to the expiration of the two-year statute of limitations for non-willful violations.

QUESTION 50

SPECIAL COMMENT: Complete data are available only for FY 1986, the first year in which the 2-year vs. 3-year limitations period became a problem because of Court decisions.

RESPONSE: 1

NOTE: Prior to Fiscal Year 1986, it had been standard practice to rely on the three-year statute of limitations for willful violations because courts had held that a willful violation for limitation purposes occurs whenever a court finds that an employer was aware that it might be subject to the ADEA. See Coleman v. Jiffy June Farms, Inc., 458 F.2d 1139, 1142 (5th Cir., 1971), cert denied, 409 U.S. 948 (1972). However, following the Supreme Court's decision in Trans World Airlines, Inc. v. Thurston, 469 U.S. 111 (1985), the possibility arose that the standard for determining willfulness for limitations purposes would be the same as the standard for determining willfulness for liquidated damages purposes. This issue has not yet been resolved by the Supreme Court and many courts of appeals still use the Jiffy June rule for determining willfulness.

For reasons of prudence and sound management, however, the Commission and the Office of General Counsel have continuously directed field staff to recommend and to file ADEA cases prior to the expiration of the two-year statute of limitations for non-willful violations.

FY-87 RATING SCALE FOR 9/4/87
DISTRICT DIRECTOR'S 300-DAY OLD CHARGES

District Offices Field Management	Minimally Satisfactory %	Fully Successful %	Highly Effective %
Atlanta	6	4	2
Baltimore	6	4	2
Birmingham	6	4	2
Charlotte	6	4	2
Cleveland	6	4	2
*Detroit			
Memphis	14	10	6
Miami	10	8	3
New Orleans	6	4	2
New York	17	10	3
*Philadelphia			
Chicago	14	10	6
Dallas	14	10	6
Denver	10	6	4
Houston	6	4	2
*Indianapolis			
Los Angeles	22	18	14
Milwaukee	8	5	2
Phoenix	6	4	2
San Antonio	6	4	2
San Francisco	6	4	2
Seattle	6	4	2
St. Louis	14	10	6

* There ~~are~~ was no ~~SBB~~ Director on-board in these district offices ~~permanent~~

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

May 9, 1988

The Honorable John Melcher
Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On behalf of Chairman Clarence Thomas, and pursuant to a request by Special Committee on Aging staff, I am transmitting materials deemed by your staff to be incomplete, illegible or missing from our two previous subpoena submissions as well as additional materials that were not requested previously by the committee.

This material was researched and compiled by staff at Headquarters and in the field. It has not been reviewed by Chairman Thomas.

I am attaching to this letter a brief description of the materials, which are sorted by district office and contained in two cartons. The materials for each office except Milwaukee are contained in the carton marked "Box 1." Submissions by the Milwaukee office are contained in the carton marked "Box 2." All materials are being provided as requested; however, Richard Schuetz, State and Local Coordinator for the St. Louis office, informs us that due to technical problems with their computer, they are unable to provide at this time the response to the memorandum from Jackie Shelton and John Schmelzer dated 1/25/88 requesting a list of pending inventory.

Although we are sharing these materials with you as your committee conducts its oversight responsibilities, many of them are not intended for publication or public disclosure. Where material pertains to cases being considered by the Commission for litigation, we request that you honor the government's privilege against disclosure of deliberative material and the Congressionally created privilege against disclosure.

Likewise, the Government in Sunshine Act exempts from public disclosure any matter relating to an agency's decision whether to participate in a lawsuit [5 U.S.C. subsection 552 b (c) (10)]. This statutory exemption shares the same purpose as the general governmental deliberative privilege and protects the law enforcement decisions of the Commission from disclosure, i.e., prevents disclosure of standards or theories used in the prosecutorial decision making process so that companies cannot structure their operations to avoid prosecution of statutory violations.

Where material pertains to charges or complaints received from individuals, the confidentiality of that information is protected by 29 C.F.R. 1626.4, which states: "...The identity of a complainant, confidential witness, or aggrieved person on whose behalf a charge was filed will ordinarily not be disclosed without prior written consent, unless necessary in a court proceeding."

Where material pertains to a specific employee's performance, we are precluded by the Privacy Act from disclosing this information to the public without the individual's prior consent. We ask that the Committee honor this statutory provision.

Sincerely,

Deborah J. Graham

Deborah J. Graham
Director of Communications
and Legislative Affairs

Enclosures

cc: Members, Senate Special Committee on Aging

SUBPOENA MATERIALS LIST
May 9, 1988

ST. LOUIS
1. Attachment A response to Questions 4b & c
2. Attachment B response to the Smelzer/Shelton 1/25/88 memo
   According to the St. Louis office, they have had technical difficulties with their computers since January and are unable to generate an accurate pending inventory list at this time.

BIRMINGHAM
1. Attachment B response to Troy's 1/22/88 memo (Jackson office)

SAN FRANCISCO
1. Attachment B response to Questions 3 & 4
2. Attachment B response to Troy's 1/22/88 memo
3. Attachment B response to the Schmelzer/Shelton 1/25/88 memo

SAN ANTONIO
1. Attachment B response to Troy's 1/22/88 memo

HOUSTON
1. Attachment A response to Question 6
2. Attachment B response to the Schmelzer/Shelton 1/25/88 memo

MILWAUKEE*
1. Attachment B response to Questions 3 & 4
2. Attachment B response to Troy's 1/22/88 memo

CHICAGO
1. Attachment B response to Troy's 1/22/88 memo)

PHILADELPHIA
1. Attachment B response to Questions 3 & 4
2. Attachment B response to the Schmelzer/Shelton 1/25/88 memo

DALLAS
1. Attachment B response to Troy's 1/22/88 memo
2. Attachment B response to the Schmelzer/Shelton 1/25/88 memo

DETROIT
1. Attachment A response to Questions 4b & c

CHARLOTTE
1. Attachment B response to Troy's 1/22/88 memo (Greensboro, Greenville and Raleigh offices)

INDIANAPOLIS
1. Attachment B response to Questions 3 & 4

LOS ANGELES
1. Attachment B response to Questions 3 & 4
2. Attachment B response to Troy's 1/22/88 memo (Los Angeles and San Diego)
3. Attachment B response to the Schmelzer/Shelton 1/25/88 memo

*The materials submitted by the Milwaukee office are in the carton marked "Box 2."

All materials are separated by office.

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United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

May 9, 1988

The Honorable Charles A. Bowsher
Comptroller General
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Comptroller General:

As Chairman of the Special Committee on Aging, I am writing to request your immediate assistance in the Committee's ongoing investigation of the Equal Employment Opportunity Commission's (EEOC) performance in enforcing the Age Discrimination in Employment Act (ADEA).

My request is of an urgent nature. Preliminary findings in a review of data from the EEOC's charge/case tracking system, recently conducted for the Committee by Michael J. O'Dell of the GAO's Human Resources Division, show all too clearly that the EEOC has been and continues to be unable to generate accurate and reliable enforcement tracking data, even in response to a Committee subpoena.

Following several weeks of analysis, Mr. O'Dell shared with the Committee on May 3, 1988, his draft findings. His report states in part:

> "***In addition to incomplete data, there also existed a problem in accepting the data as completely accurate.***One of the goals of any organization is to keep an accurate accounting of its product. One of EEOC's important products is resolution of discrimination charges. Without proper monitoring of charges, potential harm could be done.***It is evident from the data obtained from the Committee's subpoena that EEOC has had and continues to have a problem in managing its data.***Data management should be a tool, not an obstacle, to assist EEOC's specialists (investigators).***"

The Committee is deeply concerned over the EEOC's apparent inability to provide its managers with complete and accurate enforcement data so as to ensure timely resolution of ADEA complaints and charges. This failure on the part of EEOC has affected thousands of individuals over the past several years.

The severity of this problem came to light earlier this year, when it was learned that the EEOC had permitted more than 1,200 ADEA charges to exceed the two-year statute of limitations during FY 1987 and the first quarter of FY 1988. The total may exceed several thousand such cases as the EEOC searches its files back through FY 1984. Following the EEOC's repeated failures to provide the Committee with accurate and complete data from its computerized charge/case tracking system, the Committee finally had to resort to issuing a subpoena this past February. Even so, the data provided still were incomplete.

In light of the tragedy of these thousands of individuals having lost their day in court, I initiated legislation to restore their right to legal redress. The "Age Discrimination Claims Assistance Act of 1988" was signed into law on April 7, 1988, and requires the EEOC to appropriately resolve these older charges within the next 18 months.

The Act gives both the EEOC and these charging parties a second chance, but it does not by any means solve the many very serious and longstanding problems that caused so many ADEA charges to exceed the statute of limitations. Among these problems is the operation of the EEOC's computerized charge/case tracking system, the Charge Data System (CDS). Although the EEOC has spent millions of taxpayers' dollars since 1979 in developing this system, it is still unable to provide accurate enforcement tracking data in a timely manner.

This seriously deficient tracking system, in my opinion, is partly to blame for so many ADEA charges having exceeded the statute of limitations, and must be corrected as quickly as possible so that this does not recur. Therefore, I would very much appreciate your assistance in preparing a formal GAO report analyzing the EEOC data that heretofore has been reviewed by Mr. O'Dell. In addition, and in preparation for a Committee hearing in the near future, it would be most helpful if the GAO's Information Management and Technology Division could provide the Committee with the answer to a very basic question: Why is the EEOC's Charge Data System unable to provide accurate, reliable, complete and current data pertaining to the EEOC's administration and enforcement of the ADEA?

Committee Staff met this past Monday with Messrs. Howard Rhile and David Gill of the GAO's Information Management and Technology Division to discuss the EEOC's computer system. Both were very helpful and attentive to our concerns.

Should you have any questions regarding this request, please have your staff contact Max Richtman, Staff Director for the Committee, at 224-5364.

Thank you for your cooperation and assistance in this important matter.

Sincerely,

John Melcher

JOHN MELCHER
Chairman

JM:jfm

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United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

May 27, 1988

Mr. James H. Troy
Director
Office of Program Operations
The Equal Employment Opportunity Commission
Columbia Plaza
2401 E Street, N.W.
Washington, D.C. 20507

Dear Mr. Troy:

As Chairman of the Special Committee on Aging, I am writing to request that you provide to Committee staff certain documents pertinent to the Committee's investigation of the EEOC's enforcement and administration of the Age Discrimination in Employment Act.

Specifically, I am requesting that you provide to Committee staff the following documents:

1. A report and attachments addressed to you from Mr. Donald W. Muse, dated August 12, 1987, and regarding Mr. Muse's "Review of Birmingham District Office Charge Closures for Month of September 1985"; and

2. A report and attachments addressed to you from Mr. Andrew J. Sheppard, Determinations Review Program, dated September 4, 1987, and regarding a "Summary of Birmingham District Office Case File Audit."

Thank you for your cooperation and assistance.

Sincerely,

John Melcher

JOHN MELCHER
Chairman

JM:jfm

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United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

May 31, 1988

The Honorable Clarence Thomas
Chairman
The Equal Employment Opportunity Commission
Columbia Plaza, Room 500
2401 E Street, N.W.
Washington, D.C. 20507

Dear Chairman Thomas:

As Chairman of the Special Committee on Aging, I am writing to request that you appear before the Committee on June 24, 1988, to provide testimony with reference to the Commission's administration and enforcement of the Age Discrimination in Employment Act (ADEA).

The hearing subject matters to be addressed by you will include, but not be limited to, the following:

(1) the overall effectiveness, costs, efficiency and accuracy of the development and maintenance of the Charge Data System (CDS);
(2) the administrative steps which the Commission has taken to meet the requirements of the Age Discrimination Claims Assistance Act of 1988, enacted April 7, 1988, (Public Law 100-283);
(3) staffing levels of the Commission's field offices relative to their workloads, and the Commission's policy of transferring charges;
(4) the need for the EEOC to establish rules prohibiting discriminatory early retirement incentive programs.

The hearing will begin at 9:30 a.m., on June 24, 1988 in Room SD-628 of the Dirksen Senate Office Building. Please provide the Committee with ten copies of your testimony by the close of business on June 21, 1988, and an additional 100 copies on the morning of June 23, 1988. Your testimony for submission into the record may be whatever length you deem appropriate. The Committee would, however, appreciate your limiting your oral presentation to not more than five minutes in order to permit adequate time for questions.

Sincerely,

John Melcher
Chairman

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United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

June 1, 1988

Joseph Ross, Ph.D.
Director
Congressional Research Service
Library of Congress
Washington, D.C. 20540

Dear Dr. Ross:

As Chairman of the Special Committee on Aging, I am writing to request your assistance in the Committee's investigation of the Equal Employment Opportunity Commission's (EEOC) performance in enforcing the Age Discrimination in Employment Act.

I would very much appreciate assistance from your staff in analyzing the results of a recent survey of EEOC employees relating to their views on working conditions within the agency. Jim Michie and Ron Kader of the Committee staff have met with Royce Crocker, Barbara Schwemle and Rosita Thomas in the CRS Government Division, and discussed analysis of only two of the eleven areas addressed in the EEOC survey: job-related communications problems and difficulties related to job requirements.

As the Committee plans to hold a hearing on June 24, 1988, it would be most helpful if the results of an analysis of the survey could be completed by June 21, 1988, and included in the hearing agenda. In keeping with your policy regarding such analyses, the Committee would not attribute the findings of your staff to CRS.

Should you have any questions regarding this request, please have your staff contact Jim Michie or Ron Kader of the Committee staff at 224-5364.

Thank you for your cooperation and assistance in this important matter.

Sincerely,

John Melcher

JOHN MELCHER
Chairman

Copy FYI

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF
THE CHAIRMAN

JAN 3 1989

The Honorable John Melcher
Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I'm writing to call to your attention the fiscal year 1989 $194.6 million budget requested by the Administration for the Equal Employment Opportunity Commission. The EEOC's appropriation will be marked up by the Senate Appropriations Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies in the near future.

Operating within the resources the Congress has made available, EEOC during my tenure as Chairman has made every effort to keep pace with the influx of new discrimination charges while processing existing cases.

The Commission has adopted significant policies to ensure certainty and predictability of enforcement, to attain the fullest relief possible for victims of discrimination and to ensure quality investigations. We have vastly improved federal agency compliance with equal employment and affirmative action programs for handicapped individuals and streamlined the federal equal employment opportunity appeals process. The Commission has developed unique, personalized outreach programs designed to augment the deterrent effect of its enforcement through public education and assistance.

Streamlined management techniques, strict financial controls, goal-oriented employee performance plans, quality assurance and automation all have helped EEOC maximize its resources to enhance its enforcement activities. Although additional improvements are needed, we have already made great progress at EEOC with available resources.

We find it increasingly difficult to keep pace with the growing number of charges in our pending inventory. We have implemented many management tools critical to an effective law enforcement agency. But without the needed resources reflected in our FY 1989 request, we will be unable to process our case inventories in a timely fashion and complete other improvements.

The Administration's consistent support of EEOC's law enforcement effort underscores the President's commitment to equal opportunity in the workplace and his confidence in our programs to achieve that goal.

I hope you and your colleagues on the Committee share this commitment to equal employment opportunity and that you will support the funding of EEOC's enforcement program at $194.6 million as requested by the Administration.

Sincerely,

Clarence Thomas

Clarence Thomas
Chairman

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United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

June 7, 1988

Mr. Joseph Bennett
Director, Office of Human Rights
City of Alexandria
2525 Mount Vernon Avenue,
Alexandria, Virginia 22301

Dear Mr. Bennett:

Thank you for your continued cooperation and assistance with this Committee in its oversight into the administration and enforcement of the Age Discrimination in Employment Act (ADEA) by the Equal Employment Opportunity Commission (EEOC). In accordance with Senate procedure, a Notice of Deposition is being served for the taking of your deposition at 10:00 a.m., Monday, June 13, 1988 in Room SDG-41 Dirksen Senate Office Building, 1st and C Streets, N.E.

This will provide an opportunity for you to give the Committee the benefit of the information which you have acquired over the years with reference to this matter.

Your cooperation and assistance are important to this oversight and much appreciated.

Sincerely,

John Melcher

Chairman

UNITED STATES OF AMERICA

Congress of the United States

Notice of
Senate Deposition

To Mr. Joseph Bennett, Director, Office of Human Rights, City of Alexandria, 2525 Mount Vernon Avenue, Alexandria, Virginia 22301

Greeting:

Please take notice that at 10:00 o'clock a.m., on June 13, 1988, at Senate Dirksen Building, Room SDG 41 / Lloyd Duxbury Special 1st & C Sts. N.E. Wash.D.C. 20510 / of the staff of the / committee on Aging of the Senate of the United States, will take your deposition on oral examination concerning what you may know relative to the subject matters under consideration by said Special / committee. The deposition will be taken before a notary public, or before some other officer authorized by local law to administer oaths; it will be taken pursuant to the Special / committee's rules, a copy of which are attached.

Given under my hand, by authority vested in me by the Special / committee, on June 7, 1988

John Melcher

Affidavit of Levi M. Morrow

My name is Levi M. Morrow. I am employed by the Equal Employment Opportunity Commission as a Senior Investigator in the Dallas District Office. I have been employed by the Commission for twelve (12) years. I currently hold the position of President of Local No. 3637, American Federation of Government Employees. Since the Local covers employees in four (4) District Offices (Dallas, Houston, New Orleans, and San Antonio), and three (3) Area Offices (El Paso, Little Rock, and Oklahoma City), I have had the opportunity to discuss the Agency's Policies and Procedures with respect to the administration and enforcement of the Age Discrimination in Employment Act (ADEA) with Investigators, Supervisors, and Managers.

It is my belief that the Agency's Policies and Procedures make it almost impossible for Investigators to enforce the ADEA. There has been no formal ADEA training for formal Intake Officers who became Investigators as a result of the reorganization of June, 1987. Yet, they have been assigned ADEA cases for investigation. Further, there has been no formal ADEA training for any employees in the Commission in at least the last five (5) years. The Agency lacks the staff and budget necessary to handle its current inventory of approximately sixty-thousand (60,000) discrimination charges under ADEA, Title VII of the Civil Rights Act of 1964, as amended, and the Equal Pay Act. Because of the Agency's large inventory of pending charges, Investigators are being pressured to close cases without doing a complete and comprehensive investigation. Age cases have priority over other discrimination charges in field offices with respect to

investigations. This is causing persons who file Title VII, Equal Pay, and the Rehabilitation Act of 1973 charges to have to wait longer for their cases to be investigated. To further compound the problem, Investigators in most field offices are carrying case loads of eighty (80) cases or more.

Because we are entering the last quarter of the fiscal year, the emphasis is now being placed on closing as many cases as possible by the end of the fiscal year in order for the Directors to meet their office goals. I feel that there are several things that could be changed to allow the Agency to process ADEA charges in a timely manner. They are: 1) Increase budget and staff in order to properly investigate and dispose of the thousands of age discrimination charges filed. 2) Eliminate the two-year statute of limitations on age charges because it forces the Agency to give age cases priority over Title VII and other discrimination cases. 3) If the two-year statute remains, set up separate Age Investigative Units for the purpose of Investigators to process only age charges. 4) Change the investigative procedures for age charges back to the Department of Labor standards. 5) Reduce the case load assigned to Investigators because if the case assignments continually exceed the investigators' ability to close cases, quality, number of cases closed, and average processing time suffers. 6) Eliminate Investigators having to spend time performing charge receipt responsibilities.

6/17/88 — Levi M. Morrow
Date — Levi M. Morrow

Sworn before me this 17th day of June, 1988.

Notary for the State of Texas. My Commission expires 04/14/92.

JOHN MELCHER, MONTANA, CHAIRMAN
JOHN GLENN, OHIO
LAWTON CHILES, FLORIDA
DAVID PRYOR, ARKANSAS
BILL BRADLEY, NEW JERSEY
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DAVE DURENBERGER, MINNESOTA
ALAN K. SIMPSON, WYOMING
PAUL I. RICHTMAN, STAFF DIRECTOR
G. LAWRENCE ATKINS, MINORITY STAFF DIRECTOR

United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

June 21, 1988

The Honorable John Melcher
Chairman
Special Committee on Aging
SDG-41

Dear John:

I would like to request, on behalf of the minority members of the Committee, that you invite two additional witnesses to testify at the hearing scheduled for Thursday, June 23 on "The EEOC and its Performance in Enforcing the Age Discrimination in Employment Act". These two witnesses are directors of EEOC field offices in Houston, TX, and Charlotte, NC who I think would provide an interesting and different perspective from the witnesses the committee has already invited to testify.

The witnesses I am requesting are:

Harriet J. Ehrlich, Director
EEOC Houston District Office
405 Main Street, 6th Floor
Houston, Texas 77002
(713) 226-2601

R. Edison Elkins, Director
EEOC Charlotte District Office
5500 Central Avenue
Charlotte, North Carolina 28212
(704) 567-7100

I apologize for the lateness of this request, and hope that the invitation of these witnesses will not greatly inconvenience the staff. Thank you for your consideration.

Sincerely,

JOHN HEINZ,
Ranking Minority Member

JH/gla

JOHN MELCHER, MONTANA, CHAIRMAN
JOHN GLENN, OHIO
LAWTON CHILES, FLORIDA
DAVID PRYOR, ARKANSAS
BILL BRADLEY, NEW JERSEY
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J. BENNETT JOHNSTON, LOUISIANA
JOHN B. BREAUX, LOUISIANA
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JOHN HEINZ, PENNSYLVANIA
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LARRY PRESSLER, SOUTH DAKOTA
CHARLES E. GRASSLEY, IOWA
PETE WILSON, CALIFORNIA
PETE V. DOMENICI, NEW MEXICO
JOHN H. CHAFEE, RHODE ISLAND
DAVE DURENBERGER, MINNESOTA
ALAN K. SIMPSON, WYOMING
MAX I. RICHTMAN, STAFF DIRECTOR
G. LAWRENCE ATKINS, MINORITY STAFF DIRECTOR

United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

June 22, 1988

The Honorable John Heinz
Ranking Minority Member
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Senator Heinz:

Thank you for your letter of June 21, 1988 concerning your wish to have two additional witnesses testify at the Committee's hearings later this week.

I would be pleased to have the two witnesses you have suggested testify at the hearings, but on June 24 instead of June 23, 1988. We have no time for additional witnesses on Thursday. Any additional witnesses at this late date will interfere with the structure of the first hearing.

I will be glad to add your two witnesses to the witness list for June 24, 1988.

Best regards.

Sincerely,

John Melcher

JOHN MELCHER
Chairman

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF
THE CHAIRMAN

The Honorable John Melcher
Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for taking time to meet with me prior to the Special Aging Committee oversight hearings on June 23 and 24, 1988.

EEOC remains committed to vigorously enforcing the laws against employment discrimination. The effectiveness of this agency is directly linked to the support of you and your colleagues.

Sincerely,

Clarence Thomas
Chairman

JOHN MELCHER, MONTANA, CHAIRMAN
JOHN GLENN, OHIO
LAWTON CHILES, FLORIDA
DAVID PRYOR, ARKANSAS
BILL BRADLEY, NEW JERSEY
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JOHN H. CHAFEE, RHODE ISLAND
DAVE DURENBERGER, MINNESOTA
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United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

June 30, 1988

The Honorable Clarence Thomas
Chairman
Equal Employment Opportunity Commission
Columbia Plaza, Room 500
2401 E Street, N.W.
Washington, D.C., 20507

Dear Mr. Chairman:

Thank you for testifying before the Committee on June 24, 1988, concerning the Equal Employment Opportunity Commission's performance in enforcing the Age Discrimination in Employment Act.

I sincerely hope and trust that the record established in these hearings will serve both the EEOC and the Congress in better understanding and appreciating what needs to be done to further ensure adequate protection for those who suffer from discrimination in employment. My intention is for the Committee to work with the EEOC toward achieving this very important goal.

The Committee would very much appreciate your assistance in completing the record of these hearings by responding to the questions listed below.

1. According to your prepared statement submitted for the record, as of June 24, 1988, EEOC Headquarters and EEOC field offices had mailed 7,546 notices to claimants in compliance with Public Law 100-283, the Age Discrimination Claims Assistance Act (ADCAA) of 1988. What are the subtotals for each of the fiscal years covered by the ADCAA?

2. You also reported in your prepared statement that, as of June 23, 1988, 23 of the 43 State and local Fair Employment Practice Agencies (FEPAs) under contract to EEOC had reported their totals of charges, or cases, covered by the Claims Act. Please identify each of the 43 FEPAs and provide for each of them the number of notices mailed to claimants.

3. Do you know for certain whether all 43 of the FEPAs intend to fully comply with the May 12, 1988 "URGENT" letter directed to them by EEOC Headquarters requesting that the FEPAs mail notices to ADCAA claimants identified in FEPA files?

4. What steps is the EEOC taking in order to ensure that each of the 43 FEPAs fully complies with the May 12, 1988 "URGENT" letter directed to them by EEOC Headquarters?

5. If any of the FEPAs are declining to fully comply with the EEOC's May 12, 1988 "URGENT" letter, please identify each such FEPA and provide the reason(s) for noncompliance, or partial compliance.

6. The EEOC's May 12, 1988 "URGENT" letter also requested that each of the FEPAs provide the EEOC, by June 10, 1988, a list containing the date of each of the ADCAA notices mailed, as well as other information pertaining to the claimants and their cases. Please provide a copy of these lists submitted by each of the FEPAs to the EEOC.

7. In your prepared remarks on page 8, you state: "Charges closed solely on the basis of the statute of limitations having expired will be reviewed for additional investigation and possible enforcement. Charges closed erroneously will be fully investigated. Charges closed before the Determinations Review procedures became effective will be reviewed for additional investigation and possible enforcement. Charges closed appropriately require no further action." Specifically, what is meant by "charges closed erroneously," and "Charges closed before the Determinations Review procedures became effective"? How are "charges closed appropriately" defined as opposed to charges closed inappropriately?

8. A document, entitled "Information for Aggrieved Persons and Their Attorneys", which recently was sent out to the field, states: "If the EEOC closed your charge before October 1, 1986, it is likely that the case file on your charge was destroyed." How many of these files have been destroyed, and what will you do in those cases where files have been destroyed?

9. The EEOC notice dated May 27, 1988 that was mailed to claimants covered by the Claims Act refers to EEOC reviews of charges "currently under investigation." Why is there no mention in the notice about reviewing closed charges covered by the Claims Act; and will the EEOC notify claimants when their cases are reopened?

10. The legislative history makes clear that it was the intent of the Congress for individuals covered by the Claims Act to be accorded the same rights available to individuals who recently filed an ADEA charge -- rights to EEOC investigation, conciliation and litigation. Why does your Legal Counsel's analysis of the Act, dated May 3, 1988, state on page 3 that "the legislative history indicates that some members of Congress expect these charges to be processed in the usual fashion."? What was the basis for the analysis to state that only "some members of Congress expect these charges to be processed in the usual fashion," when, in an earlier version of his analysis dated April 20, 1988, Legal Counsel stated without qualification that "Congress expects the revived charges to be processed in the same manner as any newly filed ADEA charges?

11. A memorandum (copy attached) dated May 23, 1988 from Jacquelyn Shelton, Director, Field Management Programs - West, to James H. Troy, Director, Office of Program Operations, EEOC, concerns a May 6, 1988 "Memorandum from Judy Keeler [Director, Los Angeles District Office] Regarding a Tracking System for FEPA ADEA Charges" (copy attached). The Shelton memorandum states: "The attached memo from Judy requests advice whether EEOC will begin immediately to enforce EEOC Order 916, Appendix C, which requires that FEPAs complete ADEA case processing within 18 months to receive contract credit." To what extent, and for how long a time, has the EEOC not been enforcing Order 916, Appendix C,? Specifically, what was, and what is currently, the EEOC's policy regarding enforcement of Order 916, Appendix C? Please provide any and all supporting documentation.

12. Ms. Keeler's May 6, 1988 memorandum to Ms. Shelton indicates that the Los Angeles District Office has not enforced Order 916, Appendix C for the past six years, and that the FEPA, Nevada Equal Rights Commission, has received contract credit for a number of ADEA cases that exceeded the two-year statute of limitations. What guidance has EEOC Headquarters given to the Los Angeles District Director regarding enforcement of Order 916, Appendix C? Please provide any and all supporting documentation.

13. What steps is the EEOC taking in order to improve training of its personnel in enforcement of the Age Discrimination in Employment Act?

14. What steps is the EEOC taking in order to improve communication and information flow within the agency, as well as improving the understanding of job requirements by personnel?

Should you have any questions regarding this request, please have your staff contact Max Richtman, Staff Director for the Committee, at 224-5364.

Thank you for your continuing cooperation and assistance.

Sincerely,

John Melcher

JOHN MELCHER
Chairman

Enclosures

O#18

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MAY 23 1988

MEMORANDUM

TO : James H. Troy, Director
Office of Program Operations

FROM : Jacquelyn Shelton, Director
Field Management Programs - West

SUBJECT : Memorandum from Judy Keeler Regarding a Tracking System for FEPA ADEA Charges

The attached memo from Judy requests advice whether EEOC will begin immediately to enforce EEOC Order 916, Appendix C, which requires that FEPAs complete ADEA case processing within 18 months to receive contract credit. The Nevada Equal Rights Commission (NERC) has raised objections about EEOC strictly enforcing the Appendix C requirement for FY 1988 when we have not done so for six years. Also, she contends that the Funding Principles, not Appendix C, govern whether NERC should receive contract credit. NERC may be denied contract credit for a number of charges as a result of the 18 month provision.

We shared a copy of Judy's memo and discussed this matter with Robert Walker in SIICP. He advised us that an immediate response to Los Angeles could not be given because this issue requires a policy decision from you and SIICP is preparing a memo to you concerning this matter.

We will probably receive similar requests from other field offices on this issue. Therefore, this matter is being brought to your attention for your consideration and response. I am available for discussion at your convenience.

Attachment

CC: Judith A. Keeler, Director
Los Angeles District Office

D 89

UNITED STATES GOVERNMENT
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

GOBIERNO DE LOS ESTADOS UNIDOS
COMISION DE IGUALDAD DE OPORTUNIDAD EN EL EMPLEO

3660 WILSHIRE BLVD., 8TH FLOOR
LOS ANGELES, CALIFORNIA 90010

MEMORANDUM

Date: May 6, 1988
To: Jackie Shelton, Director
Field Management Programs-West
From: Judy Keeler, District Director
Re: Tracking System For FEPA ADEA Charges

The following report is submitted in response to the April 28 Directors' Memo from Mr. Troy.

Although the Appendix C, Order 916 provisions have been in effect apparently since April, 1982, we had not been enforcing the requirement that NERC complete ADEA charges within 18 months in order to receive contract credit. 1/ We were aware of and had documentation regarding the 150 day conciliation attempt requirement. To date in FY/88, NERC has closed 15 charges in which the 2 year SOL had lapsed. We had given contract credit in nine of those charges.

Following is a more detailed discussion of the closures during FY/88 in which 18 or more months had elapsed. Nine such charges were no cause findings which were delayed in the Attorney General's office. 2/ Of those nine charges, we have given contract credit for seven, all of which involved firefighter positions in Las Vegas. One charge was closed as a withdrawal with settlement for $32,000 involving protracted negotiations. It was accepted by us. One charge, a concurrent charge, was closed first by us based on a request for RTS by the Charging Party, who was already in court, and as a result subsequently was closed by NERC. We gave credit to NERC on this one because they had done substantial work on the case. We could find no specific reason underlying the time elapsed in the remaining four charges.

Additionally, NERC has a total of 34 open charges which are 18 or more months old. Of those, 10 are past the 18 month benchmark, 3 of which are concurrent charges. 24 are past the 2 year federal SOL. 3/ 14 of which are concurrent charges.

Of the 16 concurrent charges, 2 are presently in court on other related bases and 6 are in the Attorney General's office. Of the 15 ADEA only charges, 1 has been in conciliation for 8 months. Full relief has been obtained by the Charging Party but the Respondent is refusing to display EEO posters at each of its facilities.

To implement the new funding principles, the NERC Director is sending a letter regarding the ADEA SOL to Charging Parties one year from the DOV and has added date of violation to her HERO reports. We will be receiving DOV as part of our reports on NERC receipts and pending inventory. We therefore will be in a position to assist NERC in monitoring and complying with the 18 month requirement to be included in the FY/89 funding principles. We also will review documentation submitted for contract credit to assure that the requirement is met.

However, the NERC Director has raised strong objection to our implementing the requirement de facto for FY/88. She contends that we have not enforced the Appendix C requirement for six years and we have not emphasized it to her. She also contends that it is funding principles, not Appendix C, that governs whether NERC receives contract credit.

If you so advise me, we will begin to strictly enforce the Appendix C requirement now, the effect of which would be to deny contract credit to NERC on at least six and potentially up to 41 charges. However, our failure to do so for six years leaves us in a potentially embarrassing position if the NERC Director objects (as she will!). Further, I would want assurance that the requirement is being enforced nationwide, since NERC is sensitive about disparate treatment.

Please advise.

1/ Based on the discussions at and reactions to the funding principles at the FEP conference, I believe that we were not the only office to have missed this requirement. Noone from Headquarters or the field raised it during the discussion. It was not mentioned in our 1985 audit.

2/ The FEPs have argued that they should not be responsible for delays beyond their control. NERC cannot control the A.G.'s office.

3/ There is no similar SOL under state law.

JOHN MELCHER, MONTANA, CHAIRMAN
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United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

July 15, 1988

The Honorable Charles A. Bowsher
Comptroller General
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Comptroller General:

I am writing to thank you for providing assistance to the Committee in its investigation of the Equal Employment Opportunity Commission's (EEOC) performance in enforcing the Age Discrimination in Employment Act (ADEA).

The testimony of both Michael O'Dell of the Human Resources Division and Howard Rhile of the Information Management And Technology Division was invaluable in enabling the Committee to complete the record of oversight hearings conducted on June 23 and 24, 1988. Your willingness to accommodate the Committee's needs on short notice was very much appreciated. The Committee also wishes to recognize the excellent assistance provided by Ms. Helen Hsing of the Office of Congressional Relations, and by David Gill of the Information Management And Technology Division.

Again, thank you for your cooperation and assistance in this important matter.

Sincerely,

John Melcher

JOHN MELCHER
Chairman

JM:jfm

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF
THE CHAIRMAN

JUL 15 1988

The Honorable John Melcher
Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Senator Melcher:

On July 13, 1988, Mr. Lloyd Duxbury of your staff advised the Commission that the information which EEOC had submitted to your Committee on October 6, 1987 with a request for confidentiality will be published as part of the hearing record. I am dismayed by and strongly disagree with the Committee's decision to publish this information.

In response to requests from your Committee, EEOC expended hundreds of hours of staff time compiling documents and preparing responses to written questions posed by the Committee. Because some of the questions sought information that was discussed at a Commission meeting which was properly closed to the public pursuant to the Sunshine Act, 5 U.S.C. §552b(c)(10), and that was protected by the governmental deliberative process privilege, a separate submission dated October 6, 1987 was made in response to those questions. The letter informed the Committee that the information was discussed at a closed Commission meeting and that it was privileged and requested that it not be made part of the public record. The submission was accepted without comment, and, therefore, it was assumed by us that the Committee would honor the Commission's Sunshine Act determination and request for confidentiality. This assumption was based on our own investigative procedures where we impose on ourselves the obligation to deal openly and fairly with potential witnesses. Therefore, whenever potential witnesses request confidentiality from our investigators, EEOC staff either agree to the confidentiality request or inform the potential witness that we cannot accept the information on those terms. Thus, I was distressed to learn that the Committee has decided to ignore our request for confidentiality nine months after accepting the proffered information.

I am also concerned about the effect which release of this type of information could have on the EEOC's mission. The Commission is a collegial body which reaches consensus and decisions after the free and frank exchange of ideas among its members and with its staff. Release of one Commissioner's statements or position or someone's characterization of one Commissioner's statements or position may mislead the public about what the entire Commission has decided or what the EEOC's position is. In addition, Commissioners and staff may be less willing to exchange ideas and opinions or engage in rigorous and challenging discussion in the future for fear that excerpts of their remarks may later be disclosed and misunderstood.

I think that release of the submitted information could confuse or mislead the public and pose a real danger to the quality of future Commission deliberations. I strongly disagree with the Committee's decision to disclose this information despite the Sunshine Act's recognition of the need for its confidentiality and authorization to withhold it and would ask that the Committee honor the governmental deliberative process privilege as requested when the information was originally submitted.

Sincerely,

Clarence Thomas
Chairman

Comptroller General
of the United States

Washington, D.C. 20548

July 22, 1988

Ron

The Honorable John Melcher
Chairman, Special Committee
on Aging
United States Senate

Dear Mr. Chairman:

Thank you for your thoughtful letter of July 15, 1988, complimenting Michael O'Dell, Howard Rhile, and David Gill for their assistance to the Committee on its investigation of the Equal Employment Opportunity Commission's (EEOC) performance in enforcing the Age Discrimination in Employment Act (ADEA).

It is a source of great satisfaction to know that our staff performed in such a way to merit your commendation.

I am having a copy of your letter forwarded to their Division Director and a copy placed in their personnel folder. I know that they highly value your expression of thanks as I do.

Sincerely yours,

Charles A. Bowsher
Comptroller General
of the United States

July 26, 1988

Senator John Melcher
United States Senate
Special Committee On Aging
Washington, D.C. 20510-6400

Dear Sir:

Enclosed is the copy of the transcript sent to me for my review. Everything in the transcript appears to be correct.

I would like to thank you for the opportunity of having to testify before the Committee. I am proud to be a Federal employee and anything I can do to enhance the Agency for which I am a part I am willing to do so. I want the Commission to become as viable as all other federal agencies and to be the best it can be at the job we have been entrusted with.

Sincerely,

Vanessa B. Hannah

Vanessa B. Hannah
Investigator/Witness

JOHN HEINZ, PENNSYLVANIA, CHAIRMAN
JOHN GLENN, OHIO
LAWTON CHILES, FLORIDA
DAVID PRYOR, ARKANSAS
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MARY J. SICHTERMAN, STAFF DIRECTOR
G. LAWRENCE ATKINS, MINORITY STAFF DIRECTOR

United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

July 27, 1988

Mr. Louis Clark
Executive Director
Government Accountability Project
Suite 700
25 E St., N.W.
Washington, D.C. 20001

Dear Lou:

Thank you for returning my call today. It was good chatting with you again after so many years. Here's hoping for better times to follow the upcoming election.

As I mentioned to you over the telephone, the Committee conducted a lengthy investigation, beginning in August 1987, into the Equal Employment Opportunity Commission's (EEOC) performance in enforcing the Age Discrimination in Employment Act (ADEA). We conducted hearings on September 10, 1987, and on June 23 and 24, 1988. Our primary focus was on whether the more than 15,000 ADEA charges filed with the EEOC annually were being processed and resolved in a timely fashion, prior to the running of the ADEA's two year statute of limitations. Despite the agency's rather transparent stonewall, we were able to establish that thousands of ADEA charges had been allowed to run the statute.

Following the EEOC's repeated refusals to provide the Committee with enforcement data from the agency's computerized case tracking system, the Committee served a subpoena on EEOC Chairman Clarence Thomas on February 24, 1988.

The Committee conducted two days of hearings in June of this year. We were able to establish that, contrary to the EEOC's expressions of shock and disbelief this past December over so many ADEA charges having exceeded the statute, EEOC Headquarters had been aware of this problem since early 1986 but had taken no action until after the Committee had begun to ask questions in September of last year.

We were able to establish these facts through sworn testimony of six individuals who testified on June 23, 1988. All six were served protective subpoenaes. Five were current employees (three District Office Directors and two investigators) of EEOC, and the sixth was a former Regional Director (responsible for eight of the EEOC's 23 Districts).

The Chairman of the Committee apprised the witnesses (copy enclosed) of those sections of the U.S. Code which address retaliation, intimidation and harassment of witnesses, and asked that he be notified of any such activities.

Shortly after the hearing, we heard from one of the witnesses, Lynn Bruner, Director of the EEOC's St. Louis District Office. Bruner is alleging that her superiors are engaged in a campaign of intimidation, harassment and intimidation against her (sworn statements attached). Although her problems started prior to her involvement with the Committee, it is obvious that her testimony significantly exacerbated the animosity of her superiors.

A second witness apparently has decided to proceed on his own and recently filed a suit against EEOC Chairman Thomas in Federal Court.

I would very much appreciate any advice you may wish to offer regarding Bruner's situation. Among the enclosures is a chronology of events which either involved Bruner directly or may have negatively impacted on her. Should you wish to obtain copies of any of the documents summarized in the chronology, please contact me at 224-5364. Please phone me if and when you find it appropriate to discuss Bruner's situation.

Many thanks, Lou, for your interest and consideration.

Best regards.

Sincerely,

James P. Michie
Chief Investigator

Enclosures

JOHN MELCHER, MONTANA, CHAIRMAN
JOHN GLENN, OHIO
LAWTON CHILES, FLORIDA
DAVID PRYOR, ARKANSAS
BILL BRADLEY, NEW JERSEY
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RICHARD SHELBY, ALABAMA
HARRY REID, NEVADA
JOHN HEINZ, PENNSYLVANIA
WILLIAM S. COHEN, MAINE
LARRY PRESSLER, SOUTH DAKOTA
CHARLES E. GRASSLEY, IOWA
PETE WILSON, CALIFORNIA
PETE V. DOMENICI, NEW MEXICO
JOHN H. CHAFEE, RHODE ISLAND
DAVE DURENBERGER, MINNESOTA
ALAN K. SIMPSON, WYOMING
DAVID I. BECHTMAN, STAFF DIRECTOR
G. LAWRENCE ATKINS, MINORITY STAFF DIRECTOR

United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

July 28, 1988

Ms. Aletha Brown
Senior Evaluator
Information Management and Technology Division
U.S. General Accounting Office
Room 6725
441 G Street, N.W.
Washington, D.C. 20548

Dear Ms. Brown:

I am writing to thank you for providing invaluable assistance to the Committee in its investigation of the Equal Employment Opportunity Commission's (EEOC) performance in enforcing the Age Discrimination in Employment Act (ADEA).

The Committee very much appreciated your efforts as Senior Evaluator in your Division's presentation of a progress report at the Committee's hearing on June 24, 1988 concerning the integrity of the EEOC's computerized case tracking system.

Messrs. James Michie and Ronald Kader of the Committee staff look forward to working with you and your colleagues in the coming months as you complete an evaluation of the EEOC's computerized Charge Data System.

Again, thank you for your cooperation and assistance in this important matter.

Sincerely,

John Melcher

JOHN MELCHER
Chairman

cc: Honorable Charles A. Bowsher
U.S. Comptroller General

JOHN MELCHER, MONTANA, CHAIRMAN
JOHN GLENN, OHIO
LAWTON CHILES, FLORIDA
DAVID PRYOR, ARKANSAS
BILL BRADLEY, NEW JERSEY
QUENTIN N. BURDICK, NORTH DAKOTA
J. BENNETT JOHNSTON, LOUISIANA
JOHN B. BREAUX, LOUISIANA
RICHARD SHELBY, ALABAMA
HARRY REID, NEVADA
JOHN HEINZ, PENNSYLVANIA
WILLIAM S. COHEN, MAINE
LARRY PRESSLER, SOUTH DAKOTA
CHARLES E. GRASSLEY, IOWA
PETE WILSON, CALIFORNIA
PETE V. DOMENICI, NEW MEXICO
JOHN H. CHAFEE, RHODE ISLAND
DAVE DURENBERGER, MINNESOTA
ALAN K. SIMPSON, WYOMING
MAX I. RICHTMAN, STAFF DIRECTOR
G. LAWRENCE ATKINS, MINORITY STAFF DIRECTOR

United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

August 9, 1988

Mr. David T. Kearns
Chairman and Chief Executive Officer
Xerox Corporation
P. O. Box 1600
Stamford, CT 06904

Dear Mr. Kearns:

Several months ago this Committee initiated an oversight investigation of the administration and enforcement of the Age Discrimination in Employment Act (ADEA) by the Equal Employment Opportunity Commission (EEOC).

The subjects of that oversight include the EEOC's investigation of policies and practices of Xerox which allegedly were violative of the ADEA in that they allegedly discriminated against salaried employees and former employees in the 40 to 70 age group.

On April 19, 1984, an EEOC "Letter of Violation" was issued to Xerox, followed by efforts at conciliation. It was not until March 16, 1987, that EEOC, at a meeting of the Commission on that date, made a decision not to initiate court action against Xerox on the alleged violations of the ADEA.

Yet over a year before that March 16, 1987 decision by EEOC, Xerox informed its stockholders and the public that it "has been informally advised that the EEOC has terminated its proceedings in this matter."

That statement was part of Xerox's 1985 annual report and part of Form 10-Q quarterly reports filed by Xerox with the Securities and Exchange Commission in 1986.

I trust you will respond with specific information as to: (1) the name of the person or persons by whom Xerox was "informally advised that the EEOC has terminated its proceedings"; (2) the name and position of the person or persons at Xerox who received that informal advice; (3) the way in which that informal advice was transmitted, whether verbally or in writing; if it was in writing, I trust you will provide a copy of that writing; (4) the date and place of transmission of that informal advice; (5) any other information which Xerox has about the transmission of that informal advice which would be pertinent to this Committee's above-described oversight investigation.

Your assistance in this matter is appreciated.

Sincerely,

Chairman

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

August 12, 1988

The Honorable John Melcher
Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your letter dated June 30, 1988 requesting responses to follow-up questions to the June 23 and 24 Committee hearings.

The answers to your questions are as follows:

ANSWER #1: We are unable to provide subtotals for each of the fiscal years covered by ADCAA. We did not compile annual statistics as EEOC did not require this data to effectively comply with the notice requirement of ADCAA and its compilation for statistical purposes would have been a costly, manual task.

ANSWER #2: As of August 9, 1988, we have received lists of ADCAA notices sent from 37 of the 43 FEPAs under contract with EEOC to process age discrimination charges. Those lists will be counted and analyzed along with those we receive from the additional six FEPAs. We do not yet know the total number of notices mailed by FEPAs. A list of the 43 FEPAs is attached. See Attachment A.

ANSWER #3 & #4: We have been assured through telephone contact with all agencies that have not yet reported to EEOC that each FEPA mailed its notices timely even though it had not yet provided a list of those notices.

ANSWER #5: Not applicable. Please see Answer 3 & 4.

ANSWER #6: The Committee has asked for copies of the lists of ADCAA notices which were submitted by each of the FEPAs to EEOC. Many of these lists contain the names of charging parties and we seek assurance that the claimants' confidentiality will be preserved.

EEOC regulations found at 29 C.F.R. Part 1610.17(f) and Part 1626.4 require that the confidentiality of charging parties be maintained:

> **Part 1610.17(f)--Requests for information relating to open case files covering alleged violations of the Equal Pay Act (29 U.S.C. 206(b)) or the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) will ordinarily be denied under the seventh exemption of the Freedom of Information Act as investigatory records compiled for law enforcement purposes.**
>
> **Part 1626.4--. . . The identity of a complainant, confidential witness, or aggrieved person on whose behalf a charge was filed will ordinarily not be disclosed without prior written consent, unless necessary in a court proceeding.**

According to Section 2.4 of the Senate Special Committee on Aging rules, "No . . . material declared confidential by a majority of the Committee . . . shall be made public, in whole or in part or by way of summary, unless specifically authorized by the Chairman and ranking minority member."

Because the Senate Special Committee on Aging has in the past provided to the news media confidential information and materials obtained from the Equal Employment Opportunity Commission, we ask that the Committee vote on whether to declare confidential the information requested in Question 6 before we provide it.

ANSWER #7: "Charges closed erroneously" simply means those which may have been closed prematurely or incorrectly due to misinterpretation and/or misapplication of Commission policy or precedent, unartful analysis and/or evaluation of the evidence, and the like. Because our investigations are reviewed at three levels prior to release, we do not expect to find many charges that fit these categories. However, if they are found, ADCAA provides adequate basis for correction and we plan to assure that charging parties receive accurate determinations.

"Charges closed before the Determinations Review Procedure" are those formally resolved through full investigation and determination of no reasonable cause prior to August 1, 1987. On December 15, 1986, the Commission adopted a policy which provides charging parties with the right to request review of any charge in which the field office finds no reasonable cause to believe the charge has merit. The Determinations Review Program has been a distinct component of the Office of Program Operations since August 1, 1987 and provides charging parties with a separate review of the findings by employees who are not associated with the office that completed the investigation. Therefore, DRP provides a sound mechanism for EEOC to assure that the best investigative work has been completed and the "right" determination has been made from the evidence. All reopened charges that receive "no-reasonable cause" findings will be appealable under the DRP process.

"Charges closed appropriately" are those that are resolved through accurate application of Commission policy and procedure. Charges that meet this test, whether they were resolved through full investigation, conciliation, withdrawal, or other means will not be reopened for investigation. District Offices are expected to make clear determinations regarding cases to be reopened for further EEOC charge processing activity.

Inappropriate closures are those to which we refer in the "charges closed erroneously" paragraph.

ANSWER #8: Charge files are destroyed in accordance with EEOC's recordkeeping schedule as approved by the National Archives Record Service, General Services Administration. The schedule provides for records to be destroyed within six months to three years of resolution, dependent upon the kind of resolution reached (reasonable cause, no reasonable cause, negotiated settlement, administrative closure, and the like). While each office keeps lists of charges that are destroyed, we have not gathered and compiled those lists into national statistics.

Guidance has been sent to the field offices regarding restructuring files that have been destroyed. We have attached the June 22, 1988 instructions which relate to this issue. See Attachment B.

ANSWER #9: To avoid confusion to charging parties, we opted not to include any reference to these charges in the notice, but to send notices to each charging party whose closed charge is covered by the statute.

Each charging party that received the May 27 notice also received, in the same package, a fact sheet that explains in sufficient detail charges covered by the ADCAA, including closed charges.

ANSWER #10: A question has been raised as to why a draft version of the Legal Counsel's memorandum analyzing the Age Discrimination Claims Assistance Act of 1988 (ADCAA or Claims Act) stated that "Congress expects the revived charges to be processed in the same manner as any newly filed ADEA charge" (p.3, draft memo dated April 20, 1988), while a final version stated that "some members of Congress expect these charges to be processed in the usual fashion" (p.3, final memo dated May 3, 1988). The Legal Counsel was attempting to broadly construe the language in Section 4 of the ADCAA, which arguably requires nothing more than that those individuals whose charges have been revived be given a particular form of notice. In order to fully effectuate the remedial intent of the ADCAA, the Legal Counsel cited comments of certain members of Congress, found in the legislative history, to demonstrate the revived charges were to be processed in the customary manner.

The minor editorial change that was made in the above noted sentence between the April 20, 1988 draft and the final version, dated May 3, 1988, was designed to achieve an additional measure of precision; that is, the legislative history reflected the views of "some members of Congress." The revision did not result in any substantive change in interpretation. The Legal Counsel's conclusions in both the draft and final version of the memorandum indicated that in view of the comments of Representative Matthew Martinez and other members of Congress, the narrow notice requirements mandated by the statutory language of the ADCAA were intended to be broadly construed to include administrative processing of revived charges in accordance with Section 7 of the ADEA.

ANSWER #11 & #12: Appendix C, EEOC Order 916 (See Attachment C), which requires FEPAs to complete ADEA case processing within 18 months to receive contract credit, was approved by the Commission in April 1982 and has been in effect since that time. The Commission has never had any policy which precluded enforcement of the appendix. However, the contracts are administered by our district offices, which attempt to assist the State agencies, most of which are underfunded by the States, in processing charges in their workload. Apparently, some district offices had not firmly enforced the appendix, on their own motion, as the mentioned memoranda reflect.

The policy is that the appendix must be enforced. This has been communicated to the Los Angeles office, which to our knowledge is the only office that has not enforced it. However, we have made this a topic of the program director's conference call with the district directors and have reminded them of their responsibility in this regard in the July District Director's Memorandum.

ANSWER #13: EEOC needs the funding required to provide what we deem to be a sufficient number of training classes to all employees on a recurring basis. We have not, over the many years of budget constraints, been able to develop and provide the various courses that we deem necessary.

However, we have been able to complete several innovative training efforts which have provided a sound basis for our staff to investigate and decide cases under the three statutes. The following are among these efforts:

a) Local managers develop and conduct training on an ongoing basis. Each Regional Attorney is responsible for keeping field office staff informed of key legal decisions, changes in statutes and procedures and pertinent legal policies and practices.

b) In June 1987, EEOC conducted a series of identical one week training courses in Dallas, Texas that were attended by every investigator, supervisory investigator, and enforcement manager in the agency. The training focused on conducting on-site investigations (including interviewing charging parties, neutral witnesses and respondents), gathering and analyzing evidence and general case development initiatives. This training was repeated for headquarters staff in July 1987, and again in December 1987, for new investigators and attorneys. The training program was developed with the idea that it would be provided to all new investigators and attorneys each year.

c) The Office of Legal Counsel provides field employees with training on the substantive and interpretive areas of EEOC's Compliance Manual on an annual basis. Budget considerations have precluded us from continuing this program in the current fiscal year.

d) Headquarters provides field and headquarters employees with substantive training upon request. For example, the Training Division and the Office of Legal Counsel recently joined forces and provided headquarters employees with a panel discussion of ADEA-related issues. The discussion was videotaped and is available for distribution to the field offices.

e) We currently are launching a pilot training program on case management and development initiatives. This training focuses on the critical oversight role of the supervisor throughout the investigative process and emphasizes the professional role of the investigator. The training program was developed with the intention of providing it to all field offices in FY 88. EEOC's current budget restrictions preclude us from providing this training to more than four field offices in this fiscal year.

ANSWER #14: EEOC efforts to improve communication and information flow, particularly with regard to enhancing the understanding of job requirements of agency personnel, are dynamic and progressive. These efforts promote agency-wide participation and include the following:

a) EEOC has an active and, we believe, successful Quality of Worklife (QWL) program. The QWL program was specifically designed to improve communication between and among EEOC managers and staff in a positive and nurturing manner. One of the major initiatives launched by the QWL Committee -- that of developing a survey to identify areas in which we can work together to build a strong agency -- was successful in meeting this objective.

b) As mentioned above, EEOC's ongoing training development efforts, particularly with regard to enhancing the understanding of employee job requirements, have been ongoing. In particular, EEOC's Investigative Training and Case Management and Development Training are exemplary in this regard.

c) EEOC has an active and successful Quality Assurance Program that seeks to encourage supervisors to work with one another and share information with all members of the investigative staff. The Quality Assurance staff works with field office personnel in quality management circles to improve understanding of job requirements by helping the staff to carefully identify and utilize specific criteria that define EEOC's public services.

d) The Commission developed a three hour satellite seminar teleconference titled "EEOC and the Laws it Enforces." The teleconference, aired nationwide in September of 1987, had one of the largest participation levels of any teleconference ever produced. EEOC employees nationwide received this training via copies of the videotaped seminar sent to each office.

e) Most recently, we have improved the understanding of job requirements by officially upgrading and clearly defining the role of EEOC investigators through the development and approval of the Investigator Personnel Series. Our new investigative series and the accompanying position descriptions specifically define the duties and responsibilities of an investigator and officially provide our investigators (formerly equal opportunity specialists) with the recognition title they deserve. District directors have been instructed to ensure that supervisory staff clearly understand the newly developed position description and hold investigators accountable for the standards contained therein.

f) EEOC managers meet and communicate with subordinates and colleagues on a continuing basis. Some examples of these ongoing efforts include the program directors' monthly district director telephone conference, efforts aimed at providing clerical personnel with a forum for addressing their career development concerns, and the chairman's periodic plenary meetings with headquarters staff to keep employees abreast of current events and initiatives.

g) The agency has developed an ongoing program of communicating Commission activities and policy to its personnel. A monthly employee newsletter, Equal Times, relays pertinent and timely information to the employees and, in turn, offices routinely submit developments and activities of interest to the rest of the agency for inclusion in the newsletter. This newsletter was developed in 1985 specifically to enhance internal communications at EEOC.

h) Copies of news releases issued by headquarters and field offices are distributed to all offices on a regular basis. News clippings pertaining to current EEO issues and other topics of interest are distributed to all field offices twice monthly.

i) Videotapes of employee meetings, congressional hearings and Commission meetings of interest, as well as tapes produced specifically to explain Commission policy to employees, are distributed to field offices and shown at headquarters. To cut costs, offices are notified that some videotapes are available to be borrowed for viewing from the agency library.

We hope this information is helpful.

Sincerely,

Deborah J. Graham
Director of Communications
and Legislative Affairs

Attachments

cc: Special Committee on Aging Members

Attachment A

EAST

Georgia Office of Fair Employment
District of Columbia Office of Human Rights
Maryland Commission on Human Rights
New Hanover Human Relations Commission
North Carolina Office of Administrative Hearings
South Carolina State Human Affairs Commission
Ohio Civil Rights Commission
Michigan Department of Civil Rights
Tennessee Human Rights Commission
Florida Commission on Human Rights
Connecticut Commission on Human Rights
Maine Human Rights Commission
Massachusetts Commission Against Discrimination
New Hampshire Commission for Human Rights
New York State Division of Human Rights
Puerto Rico Department of Labor
Rhode Island Commission for Human Rights
Vermont Attorney General's Office
Delaware Department of Labor
New Jersey Division of Civil Rights
Pennsylvania Human Relations Commission
West Virginia Human Rights Commission

WEST

Illinois Department of Human Rights
Oklahoma Human Rights Commission
Texas Commission on Human Rights
Colorado Civil Rights Division
Montana Human Rights Division
Nebraska Equal Opportunity Commission
North Dakota Department of Labor
Wyoming Fair Employment Practices Agencies
Lexington-Fayette County Human Rights Commission
Louisville-Jefferson County
Nevada Commission on Human Rights
Iowa Civil Rights Division
Minnesota Department of Human Rights
Wisconsin Equal Rights
Arizona Civil Rights Division
Utah Anti-Discrimination Division
Missouri Commission on Civil Rights
Alaska Commission on Human Rights
Idaho Human Rights Commission
Oregon Bureau of Labor
Washington State Human Rights Commission

Directory of State and Local FEP Agencies

Following a listing of state and local fair employment practice agencies that handle discrimination complaints under state or municipal laws. The state agencies are listed first, followed by local or branch office listings. Listing are included for all state agencies regardless of complaint procedures or enforcement powers. For a cross-reference to the complete listing of agencies with "706 designation"—those to which the Equal Employment Opportunity Commission defers charges—see 401:118.

Alaska

State Commission for Human Rights
431 West 7th Ave., Ste. 101
Anchorage 99501 (907-276-7474)

Anchorage Equal Rights Commission
630 E. 10th Ave., Ste. 204
Anchorage 99501

Arizona

Civil Rights Division
Attorney General's Office
1645 West Jefferson Street
Phoenix 85007 (602-255-5263)

Southern Arizona Office
502 Pioneer Bldg.,
100 N. Stone Street
Tucson 85701

Governor's Office of Affirmative Action
1700 West Washington St.,
State Capitol, Room 804
Phoenix 85007

Arkansas

Arkansas Governor's Committee on Human Resources
971 1st National Bank Bldg.,
Little Rock 72201
(501-371-2398)

California

Department of Fair Employment and Housing
1201 I Street, Suite 211
Sacramento 95814
(916-323-4547)

District and Field Offices:

255 Chester Ave.
Room 210-B
Bakersfield 93301

380 N. 8th St.
El Centro 92243

467 North Van Ness
Fresno 93701

322 West First St.
Room 2126
Los Angeles 90012

2222 Sierra Blvd.,
Suite 38
Sacramento 95825

1185 North Main St.
Salinas 93906

303 W. Third St.,
Room 451
San Bernardino 92401

1350 Front St.,
Room 3012
San Diego 92101

30 Van Ness Ave.
San Francisco 94102

888 N. First St.,
Room 200-A
San Jose 95812

28 Civic Center Plaza
Room 542
Santa Ana 92701

411 East Canon Perdido,
Room 5
Santa Barbara 93101

Colorado

Civil Rights Commission
Room 600, State Services Building
1525 Sherman Street
Denver 80203 (303-866-2621)

Branch Offices

815 Main Street
Alamosa 81101

Professional Building
Suite 231
105 East Vermijo Street
Colorado Springs 80902

1000 North Ninth Street
Suite 10
Grand Junction 81501

922½ Ninth Avenue
Greeley 80631

13th and Francisco
State Hospital Grounds
Building 2, Room 31
Pueblo 81003

Connecticut

Central Office
Commission on Human Rights and Opportunities
90 Washington St.,
Hartford 06115 (203-566-3350)

Capitol Region:
1229 Albany Avenue
Hartford 06112

West Central Region:
232 North Elm Street
Waterbury 06702

Eastern Region:
302 Captain's Walk
New London 06320

Southwest Region:
1862 East Main Street
Bridgeport 06610

Delaware

Department of Labor
Anti-Discrimination Section
Wilmington State Office Bldg.,
820 North French St., 6th Floor
Wilmington 19801

2413 Lancaster Avenue
Wilmington 19805

21 North Street
Dover 19901

Route 113
Georgetown 19947

State Human Relations Commission
William Service Center
805 River Road
Dover 19901
(302-736-4567)

District of Columbia

D.C. Office of Human Rights
Room 104
421-8th St. N.W.
Washington, D.C. 20001
(202-727-6523)

Florida

Commission of Human Relations
Montgomery Bldg., Suite 100
2562 Executive Center Circle, East
Tallahassee 32301
(904) 488-7082

Broward County Community Relations Commission
3521 West Broward Blvd.
Ft. Lauderdale 33312

Clearwater Office of Community Relations
P.O. Box 4748
Clearwater 33518

Dade County Fair Housing and Employment Appeals Board
1425 Northwest 10th Avenue
Miami 33136

Jacksonville Community Relations Commission
The Courthouse, Room 406
Jacksonville 32223

Orlando Human Relations Commission
400 South Orange Ave., Suite 103
Orlando 32801

St. Petersburg Office of Human Relations
P.O. Box 2842
St. Petersburg 33731

Georgia

Georgia Office of Fair Employment Practices
254 Washington St., S.W., Suite 585
Atlanta 30334

Governor's Council on Human Relations
State Capitol, Room 249
Atlanta 30334

Augusta/Richmond County Human Relations Commission
Suite 400, 500 Building
Augusta 30902

Hawaii

Department of Labor & Industrial Relations
Enforcement Division
888 Mililani St., Room 401
Honolulu 96813

District Offices:

75 Aupuni Street,
Hilo 96720

54 South High Street,
Wailuku 96793

State Office Building
3060 Eiwa Street
Lihue 96766

Ashikawa Bldg. #2
P.O. Box 49,
Kealakekua 96750

Idaho

Commission on Human Rights
Statehouse
506 North 5th Street
Boise 83720 (208-334-2873)

Illinois

Department of Human Rights
Chicago Central Office
179 West Washington St.
Chicago 60602

Springfield Regional Office
100 North 1st Street
Springfield 62706

Illinois Human Rights Commission
179 W. Washington St.
Chicago 60602

Fair Employment Practices Commission
4th Floor, 179 W. Washington St.
Chicago 60602 (312-793-6200)

Indiana

Civil Rights Commission
319 State Office Bldg.
100 N. Senate Ave.
Indianapolis 46204
(317-232-7670)

Bloomington Human Rights Commission
Municipal Bldg.
220 East 3rd
Bloomington 47401

East Chicago Human Rights Commission
City Hall—Room 9
4525 Indianapolis Blvd.
East Chicago 46312

Evansville Human Relations Commission
Civil Center Complex—Room 133
Evansville 47713

Fort Wayne Metropolitan Human Relations Commission
One Main St.
City-County Bldg., Room 680
Fort Wayne 46802

Gary Human Relations Commission
401 Broadway
Gary 46402

South Bend Human Rights Commission
1200 County-City Building
227 West Jefferson Blvd.,
South Bend 46601

Iowa

Civil Rights Commission
507 Tenth St., 8th Floor
Des Moines 50319 (515-281-4414)

Kansas

Commission on Civil Rights
535 Kansas Avenue—5th Floor
Topeka 66603 (913-296-3206)

Branch Office:
212 South Market
Wichita 67202

Wichita Civil Rights and Equal Employment Opportunity Commission
455 North Main St., 10th Floor
Wichita 67202

Kentucky

Commission on Human Rights
701 West Muhammad Ali Blvd., P.O. 69
Louisville 40203 (502-588-4024)

832 Capitol Plaza Tower
Frankfort 40601

Lexington-Fayette Urban County Human Rights Commission
City Hall Annex
277 N. Upper Street
Lexington 40507

Maine

Human Rights Commission
Stevens School Complex
Station No. 51
Augusta 04333 (207-289-2326)

Maryland

Commission on Human Relations
Metro Plaza Mondawmin Mall
Suite 300
Baltimore 21215 (301-383-3680)

Baltimore City Community Relations Commission
100 Eutaw Street
Baltimore 21202

Howard County Human Rights Commission
John Lee Carroll Bldg.
3450 Courthouse Drive
Ellicott City 21043

Montgomery County Human Relations Commission
6400 Democracy Blvd.
Bethesda 20034

Prince George's County Human Relations Commission
Dodge Park Professional Bldg.
3308 Dodge Park Rd., Rm 300
Landover 20785

Rockville Human Rights Commission
City Hall
Rockville 20850

Massachusetts

Commission Against Discrimination
McCormack State Office Bldg.
1 Ashburton Place
Boston 02108 (617-727-3990)

145 State Street
Springfield 01103
222 Union Street
New Bedford 02740

75A Grove Street
Worcester 01605

Michigan

Civil Rights Commission
Senate Office Bldg., 10th Floor 125 West Allegan
Lansing 48913
(517-373-7634)

Department of Civil Rights
Michigan Plaza Bldg.,
1200 Sixth Avenue
Detroit 48226

District Offices:

221 East Roosevelt
Battle Creek 49014

Labor Building
7310 Woodward
Detroit 48202

Grand Rapids State Office Bldg.
350 Ottawa
Grand Rapids 49502

520 Seymour
Lansing 48913

Downtown Saginaw Mall
310 Johnson Street
Saginaw 48607

870 Union Street
Benton Harbor 49022

Metropolitan Bldg.
432 North Saginaw
Flint 48502

954 Monroe
Jackson 49202

2542 Peck
Muskegon Heights 49444

Pontiac State Bank Bldg.,
28 N. Saginaw
Pontiac 48058

95-656 O - 89 - 14

Minnesota
Department of Human Rights
500 Bremer Bldg.
7th & Robert Street
St. Paul 55101 (612-296-5663)
Minneapolis Department of Civil Rights
2649 Park Ave., South
Minneapolis 55427
St. Paul Department of Human Rights
515 City Hall
St. Paul 55102

Missouri
Commission on Human Rights
314 East High St.
P.O. Box 1129
Jefferson City 65101
Regional Offices:
1408 N. Kingshighway
St. Louis 63113
615 East 13th Street
Kansas City 64106
604 Ward Avenue
P.O. Box 847
Caruthersville 63830
St. Louis Civil Rights Enforcement Agency
3rd Floor, Civil Courts Bldg.
St. Louis 63101

Montana
616 Helena Ave., Suite 300
Montana Commission on Human Rights
404 Power Block
Last Chance Gulch
Helena 59601
(406-449-2884)

Nebraska
Nebraska Equal Opportunity Commission
P.O. Box 94934
301 Centennial Mall, South
Lincoln 68509 (402-471-2024)
Branch Offices:
5620 Ames Ave., Suite 110
Omaha 68104
Robertson Plaza, Suite 26
Scottsbluff 69361
Lincoln Commission on Human Rights
129 N. 10th St., Rm 318
Lincoln 68508
Omaha Human Relations Department
1819 Farnam Street, Suite 502
Omaha 68102

Nevada
Equal Rights Commission
1515 E. Tropicana, Suite 590
Las Vegas 89158 (702-386-5304)

New Hampshire
Commisson for Human Rights
62 South St.
Concord 03301 (603-271-1110)

New Jersey
Division on Civil Rights
Department of Law & Public Safety
Headquarters Office
1100 Raymond Blvd.
Newark 07102
(201-648-2700)
Branch Offices:
436 E. State Street
Trenton 08608
530 Cooper Street
Camden 08102
195 Broadway
Paterson 07501
1100 Raymond Blvd.
Newark 07102
22 N. Broad Street
Trenton 08625
Arcade Bldg.,
1325 Boardwalk
Atlantic City 08401

New Mexico
Human Rights Commission
303 Bataan Memorial Bldg.,
Santa Fe 87503 (505-827-5271)

New York
State Division of Human Rights
270 Broadway
New York City 10007 (212-488-5750)
Branch Offices:
217 Lark Street
Albany
State Office Bldg.,
44 Hawley St.,
Binghamton
558 Southern Blvd.,
Bronx
26 Court Street
Brooklyn
69 Delaware Ave.,
Buffalo
175 Fulton Ave.,
Hempstead 11550
N.Y.S. Office Bldg.,
Veterans' Memorial Hgwy.,
Hauppauge
N.Y.S. Office Bldg.,
270 Broadway, 9th Floor
New York City
N.Y.S. Harlem Office Bldg.,
163 W. 125th St., 2nd Floor
New York City
89-14 Sutphin Blvd.,
Jamaica (Queens)
65 Broad St., Room 606
Rochester
100 New Street
Syracuse
30 Glenn St., 3rd Floor
White Plains 10601
New York City Commission on Human Rights
52 Duane Street
New York 10007

North Carolina
Human Relations Council
112 W. Lane
Raleigh, 27603
(919-733-7996)

North Dakota
Department on Labor
State Capitol—5th Floor
Bismarck 58501 (701-224-2660)

Ohio
Civil Rights Commission
220 Parsons Avenue
Columbus 43215 (614-466-2270)
Branch Offices:
Northeast Regional Office
680 Rockefeller Bldg.
614 West Superior Avenue, N.W.
Cleveland 44113
Southeast Regional Office
220 Parsons Avenue
Columbus 43215
North Southwest Regional Office
800 Miami Tower
40 West Fourth Street
Dayton 45402
Northwest Regional Office
510 Gardner Bldg.
508 Madison and Superior
Toledo 43604
Southwest Regional Office
600 Brotherhood Bldg.
1015 Vine Street
Cincinnati 45202
South Northeast Regional Office
302 Peoples Federal Bldg.
39 East Market Street
Akron 44308
Springfield Human Relations Department
City Bldg., Room 316
Springfield 45501

Oklahoma
Human Rights Commission
Jim Thorpe Bldg., Room G-11
P.O. Box 52945
Oklahoma City 73152 (405-521-2360)
Branch Office:
J.H. Edmondson State Office Bldg.
106 Plaza Level
440 South Houston
Tulsa 74127

Oregon
Bureau of Labor and Industries
Civil Rights Division
State Office Bldg., 2nd Floor
1400 S.W. Fifth Ave.
Portland 97201 (503-229-6615 or 800-452-7813 toll-free in Oregon)
Branch Offices:
541 Willamette, Room # 408
Eugene 97401
240 Cottage St. S.E.
Salem 97310
140 N. Grape St.
Medford 97501
455 Elrod St., Room 7
Coos Bay 97420

1230 NE Third, Ste. A244
Bend 97701

700 S.E. Emigrant, Ste. 320
Pendleton 97801

Pennsylvania

Human Relations Commission
101 S. Second St., Ste. 300
P.O. Box 3145
Harrisburg 17105-3145 (717-787-4410)

Branch Offices:

4 Smithfield St., Room 810
Pittsburgh 15222

101 State Office Bldg.,
Broad & Spring Garden
Philadelphia 19130

301 Muench St., 1st Floor
Harrisburg 17102

Allentown Human Relations Division
36 North Fifth St., 2nd Floor
Allentown 18101

Philadelphia Commission on Human Relations
601 City Hall Annex
Philadelphia 19107

Pittsburgh Commission on Human Relations
908 City-County Bldg.
Pittsburgh 15219

Puerto Rico

Department of Labor and Human Resources
Anti-Discrimination Unit
505 Munoz Rivera Ave.
Hato Rey 00918 (754-5353)

Rhode Island

Commission for Human Rights
334 Westminister Mall
Providence 02903 (401-277-3732)

South Carolina

Human Affairs Commission
1111 Belleview Street
P.O. Drawer 11528
Columbia 29211 (803-758-2748)

South Dakota

Commission on Human Rights
State Capitol Bldg.
Pierre 57501 (605-773-3177)

Tennessee

Human Development Commission
C3-305 Cordell Hull Bldg.
Nashville 37219 (615-741-2424)

Field Offices:

170 N. Main St., Room 1113
Memphis 38103

409 Chestnut St., Room 202
Chattanooga 37402

Texas

Department of Labor and Standards
P.O. Box 12157
Capitol Station
Austin 78711

Governor's Office for Equal Opportunity
204 Sam Houston Bldg.,
Austin 78711

Austin Human Relations Commission
P.O. Box 1088
Austin 78767

Corpus Christi Human Relations Commission
101 N. Shoreline
Corpus Christi 78408

Fort Worth Human Relations Commission
1000 Trackmorton Street
Fort Worth 76102

Utah

Industrial Commission
Anti-Discrimination Division
560 South 300 East
Salt Lake City 84111 (801-533-5552)

Vermont

Attorney General of Vermont
Civil Rights Division
Pavilion Office Bldg.
109 State Street
Montpelier 05602

Virginia

Dept. of Labor and Industry
P.O. Box 12064
Richmond 23241 (804-786-2376)

Alexandria Human Rights Office
405 Cameron Street
P.O. Box 178
Alexandria 22313

Fairfax County Human Rights Commission
Circle Towers Office Bldg., Suite 206
9401 Lee Highway
Fairfax 22030

Virgin Islands

Department of Labor
P.O. Box 148
Charlotte Amalie,
St. Thomas 00801

Washington

State Human Rights Commission
Evergreen Plaza Bldg., Room 402
Seventh and Capitol Way
Olympia 98504

State Human Rights Commission
1601 Second Avenue Bldg.
4th Floor
Seattle 98101 (206-464-6500)

Branch Offices:

401 Bellingham National Bank Bldg.,
Cornwall & Holly
Bellingham 98224

205 South Wehe
Pasco 99301

1601 2nd Ave. Bldg., 4th Floor
Seattle 98101

1004 Paulsen Bldg.,
Spokane 99201

1201 South Procter
Tacoma 98504

Washington Mutual Savings Bank Bldg.,
32 North 3rd St., Suite 410
Yakima 98901

Seattle Human Rights Commission
2200 Rainier Ave., South
Seattle 98104

Tacoma Human Rights Commission
740 St. Helens, Room 307
Tacoma 98402

West Virginia

Human Rights Commission
1036 Quarrier St.,
215 Professional Bldg.,
Charleston 25301 (304-348-2616)

Charleston Human Rights Commission
1218 Quarrier Street
Charleston 25301

Wheeling Human Rights Commission
Riley Law Bldg., Rm 707,
Wheeling 26003

Wisconsin

Equal Rights Division
Dept. of Industry, Labor and Human Relations
201 E. Washington St.,
Madison 53707
(608-266-6860 or 1-800-362-3020)

Branch Office:

Equal Rights Division
Dept. of Industry, Labor & Human Relations
819 North Sixth Street
Milwaukee 53203
(414-224-4384)

Madison Equal Opportunities Commission
351 W. Wilson Street
Madison 53703

Wyoming

Fair Employment Commission
Hathaway Bldg.
Cheyenne 82002 (307-777-7263)

Attachment B

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

JUN 22 1988

MEMORANDUM

TO : District Directors

FROM : James H. Troy, Director
Office Program Operations

SUBJECT : Guidance on Processing of ADEA Charges under the Age Discrimination Claims Assistance Act of 1988

As you know, persons with ADEA charges subject to the Claims Act recently have been notified of their right to an extended period within which to file suit. I have previously sent you the following:

- May 12, 1988 memorandum with attachments, including the May 3 interpretive memorandum from the Office of Legal Counsel, on the subject of FEPA issuance of notices; and

- May 26, 1988 memorandum on data collection and issuance of notices.

This memorandum provides additional guidance on Claims Act case processing and reporting requirements. Clearly, EEOC has an obligation to review ADEA charges which are subject to the Claims Act to determine the extent of additional investigative and enforcement activity needed, if any.

As a reminder, if you have not already done so, please send the list of names, addresses, and charge numbers of all notices you have mailed to Doris Werwie, Room 400, in headquarters. If any notice you send is returned as undeliverable by the Postal Service, please determine if a current address can be obtained for remailing. Any notice sent from headquarters which is returned will be sent by headquarters to the appropriate field office to obtain current addresses from charge files or other readily available sources and to mail it directly to the charging party. Keep records of all other undeliverable mail.

PROCESSING

You should review once more the legal analysis of the Claims Act prepared by EEOC's Office of Legal Counsel, dated May 3, 1988, which we attached to my May 12, 1988 memorandum. We expect you to use sound judgment in carrying out any review of possible affected charges.

Keep in mind that EEOC/Charging Party has only until September 28, 1989 to bring a civil suit on the claim set forth in the charge. You ought to finalize the review of possible affected open or closed charges by no later than December 30, 1988. This will give you the time needed to complete an investigation and to develop the case for litigation, where necessary. Be reminded that where a charge results in a cause finding, EEOC must complete the processing and file suit in court prior to September 28, 1989.

When conducting file reviews, you must first determine whether the charge falls under the parameters of the law: timeliness of filing, date of notification of ADEA rights, disposition of the charge.

Where an EEOC field office conducted thorough processing of a charge, no further review is necessary. Further, no additional processing is necessary for charges that have been reviewed by the Determinations Review Program.

RESPONSE TO CLAIMANT INQUIRIES

Attempt to clarify all questions regarding coverage of the law and explain possible EEOC actions. There are several categories of charges which will come to your attention as you analyze claimants' inquiries. They include:

- Charges Closed Solely on the Basis of the Statute of Limitations Having Expired - Particular attention should be given to those charges which were closed solely on the basis of the statute of limitations. When such a case is identified after a claimant contacts you, review it for additional investigation and possible enforcement.

- Charges Closed Erroneously - Proceed to fully investigate such charges. Again, consider assigning charges in a fashion similar to that which occurs when an investigator leaves his/her job.

- Charges With Files That Have Been Destroyed - If a charge file appears to have been destroyed, verify that this has actually happened. If so, review all sources which may contain copies of relevant information. Then, ensure that the charge falls under the coverage of the law. Make a determination whether further action by EEOC is necessary. If so, attempt to reconstruct the file. The charging party or the charging party's attorney may have copies of relevant evidence or information may be found in congressional or other correspondence files kept separately by the field office. If you are unable to obtain information to enable you to conduct your review, consider securing it from the respondent. If you are still unable to reconstruct the file, document your efforts and inform the person of his/her suit rights.

- Charges Closed Before Determinations Review Procedures Became Effective - Such charges should not be forwarded to DRP. They are to be treated identically to other charges closed before the institution of the Determinations Review Program. However, if you issue a new Letter of Determination, proceed as with any other charge recently closed. You must however advise charging party of the filing suit date of September 28, 1979.

JURISDICTIONAL ISSUES

When you encounter jurisdictional questions under the Claims Act, e.g., whether a charging party was "notified of the disposition of a charge" or questions on the statute of limitations for willfulness, refer to the May 3 Legal Counsel memorandum. Unresolved questions should be discussed with the Regional Attorney. Questions concerning the possible application of the Claims Act to lawsuits dismissed on statute of limitations grounds or to cases in which the Commission disapproved of litigation should be referred to the Regional Attorney and appropriately coordinated with the General Counsel. If a charging party insists on obtaining information regarding future EEOC action in cases that have been submitted to the Commission for suit, the General Counsel requests that the charging party make the request to his office in writing.

RECORDKEEPING

The law requires EEOC to submit periodic reports to Congress on our activities under the Act. You must keep adequate records to provide us with the necessary information to develop the report.

Persons who receive Claims Act notices, whether sent by EEOC or by the FEPAs, may be contacting your office for assistance. All calls from claimants should be logged. Results of calls should also be logged. Information on charges that have been reopened, reinvestigated or reconsidered should be noted. Specifically, if EEOC has taken further action on behalf of a charging party or where EEOC has obtained some relief should be highlighted.

REPORTS TO OPO

The Claims Act directs us to provide three semiannual reports to the Congress on the number of notices sent, the number of successful conciliations, and the number of lawsuits we have filed. You will be notified of the format and content of these reports. However, in order to ensure full compliance with the

Claims Act's provisions, particularly the semiannual reporting requirements, each office must keep a complete record of:

- inquiries from Claims Act claimants;
- charge file reviews;
- investigations conducted;
- LODs issued;
- conciliation activity; and
- results of conciliation activity.

Please make this memorandum available to all enforcement staff. If you have further questions, call Robert Walker at 634-6335 or Hilda Rodriguez at 634-6831.

cc: Pam Talkin
SIICP
FMP-East
FMP-West
DRP
OCLA
Area Directors
Local Directors

Attachment C

ADEA CONTRACT CREDIT REVIEW MANUAL

EEOC Order 916
Appendix C
April 1982

FOREWORD

This manual has been developed to describe the requirements for acceptance, documentation, and EEOC closure action on all age discrimination cases submitted by contracting agencies to the EEOC for review. It differs from the Title VII Substantial Weight Review Manual, Appendix A of this Order in three important respects:

First, the ADEA requires only that charges alleging age discrimination in employment be referred to certain state agencies, prior to institution of a lawsuit. Thus, there is no requirement — as there is in Title VII — that the Commission defer its processing or that it accord substantial weight to the findings of a State or local agency.

Second, the only affirmative obligation which the ADEA imposes on the Commission is to notify respondents "promptly" that charges have been filed and to attempt "prompt" resolution through informal methods of conciliation, negotiation, and persuasion (Section 7(d) of the ADEA). The Commission is requiring the same of contracting agencies. Beyond this, the statute makes no requirement of the Commission. It provides no guidance as to the types of procedures which are to be undertaken by the Commission in finalizing a case (e.g., a full investigation resulting in a finding) and which, in turn, are a measurement of the sufficiency of action by a contracting agency. While the Commission has developed its own standards for closure, such standards may be different from State or local agency's standards.

Third, the ADEA invests the Commission with broad investigative authority which may be exercised independently of any pre-existing charge. Thus, even in those cases where a contracting agency submits to the Commission for review a closed file including final action on behalf of the charging party (e.g., negotiated settlement agreement), the Commission may, where appropriate, continue processing against the respondent named in the charge through the institution of a directed investigation.

Because of these differences, cases will be reviewed for contract credit only and will not be findings of the Commission. As a general rule, contract credit will be given if the requirements of Section 7(d) are met, if processing is completed within 18 months of alleged violation, and if the agency's further activity meets additional Commission requirements for closure. Thus, upon the completion of charge processing by the contracting agency, the Commission will review case files to determine the following:

(1) whether the Section 7(d) requirements have been fulfilled within 150 days of filing or receipt from EEOC;

(2) whether processing has been completed within 18 months of alleged violation; and

(3) whether contract credit should be given. Contract credit will be given where a case is settled; where a case is administratively closed; where a case is closed pursuant to a finding; or where a case completes the entire administrative process (e.g., there is a final order or letter after hearing).

In all cases, as a prerequisite to payment the contracting agency must document its fulfillment of these requirements.

If these requirements are satisfied and the Commission decides to take additional action against a respondent (e.g., to initiate a directed investigation) contract credit will still be given. Such action will generally be of a class nature since a state or local agency action on the merits of the charge would have resolved the individual grievant's situation. 1/

A concurrent Title VII/ADEA charge will be treated as a Title VII charge and credited as one resolution on the Title VII contract. However, while the procedures outlined in Appendix A of this Order will be used for review of the required documentation, the 7(d) notification and conciliation within 150 days of filing or receipt from EEOC and the 18 month completion of processing will be required to obtain contract credit.

Concurrent Title VII/ADEA charges processed by certified FEP Agencies will be exempted from automatic acceptance and reviewed as stated in the preceding paragraph. Of course, simple age charges processed by certified FEP Agencies will continue to be reviewed according to the procedures outlined in this Manual.

The procedures outlined in this Order are mandatory and may not be waived or altered except by the prior written consent of the Director, Office of Field Services, EEOC.

1/ It is not anticipated that the Commission will take further action with regard to the charge itself. In order not to create any expectations to the contrary in charging parties, they will be advised, as soon as a case is transmitted to the contracting agency for processing, that federal processing has terminated.

ADEA "CONTRACT" CREDIT REVIEW MANUAL
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5-F	EEOC Statistical Report on FEP Agency Contract Performance

SECTION 1

REVIEW OF COMPLIANCE WITH ADEA CHARGE PROCESSING REQUIREMENTS

I. Section 7(d)-Notification and Conciliation Requirement

A. Requirements for Acceptance The only affirmative obligation with respect to charge processing which is imposed on the Commission, and thus on its agents, under the ADEA is to conduct a Section 7(d) conciliation attempt. Some cases will be settled as a result of Section 7(d) conciliations. Where this occurs, these cases will receive contract credit. In other cases, when initial settlement efforts fail, appropriate continued processing will be required. Regardless of the final action with respect to cases in which 7(d) attempts fail, each will be reviewed by EEOC, first to determine whether the contracting agency has complied satisfactorily with the Section 7(d) requirements and, then to determine whether the continued processing activity meets the requirements for acceptance of final actions outlined in Sections 2 and 4 of this manual.

In order to establish its satisfactory compliance with the Section 7(d) requirements, the agency must demonstrate that it has undertaken the following steps within 150 days of filing or receipt from EEOC:

1. Notification to the respondent that a charge has been filed and invitation to engage in early settlement attempts. 2/

2. Consultation with the charging party to determine the terms on which (s)he is willing to settle (provided, however, that any such terms must be consistent with the relief to which (s)he would be entitled under the ADEA);

3. Notification to the respondent of the charging party's terms;

4. Communication to the charging party of respondent's acceptance or counterproposal; and

5. Appropriate follow-up measures to secure or facilitate voluntary early resolution (including, e.g., on-site visits, interrogatories, fact-finding).

In the instance where charging party files in court before the agency has completed its follow-up, the agency must be able to demonstrate its reasonable efforts (e.g., the on-site visit or the fact-finding conference must have been previously scheduled, the interrogatories previously served) to satisfy the Section 7(d) requirements.

B. Documentation Required (To be provided to EEOC at time of submission for contract credit.)

1. Copies of all letters or other communications referenced above (where communications were by telephone or face-to-face meeting, a summary of the conversation, including date, persons contacted, name of contracting agency representative, and offers made);

2. Where final settlement is reached as a result of these efforts, a copy of the settlement agreement (see also Section 2, III A and B).

2/ In those cases transmitted to contracting agencies by the EEOC, the Commission will advise the respondent and charging party that the contracting agency will be processing the charge and advise the respondent that if it wishes to settle the charge, it should contact the contracting agency within ten (10) days.

C. EEOC Closure Action There is no independent requirement for closure with respect to this section. Where cases are closed as a result of Section 7(d) settlement attempts, the procedures in Section 2, III A and B below specify the appropriate EEOC closure actions. All other closures are in accordance with the provisions outlined in the remainder of Section 2.

II. Completed Processing within 18 Months of Alleged Violation Requirement

A. Requirements for Acceptance Unlike the Title VII administrative complaint process, the filing of an ADEA charge does not toll the statute of limitations for filing an action in court. Thus, a charging party cannot wait longer than two years from the date of alleged violation (three years in the instance of willful violation) to file suit under the ADEA. Therefore, the contracting Agency is required to complete its process within 18 months of alleged violation to allow a reasonable period of time for EEOC or the charging party to determine if subsequent court action is warranted on the charge before the statute of limitations is exhausted.

The 18 month completion of processing required for contract credit will be deemed satisfied when the agency's final action is submitted within that period or when the agency has commenced its extended processing (hearing or litigation) within that period.

B. Documentation Required (to be provided to EEOC at time of submission for contract credit.) There is no independent requirement for documentation of completed processing (which will be evidenced by the date of the agency's final action submitted as required in Section 2) except that in charges where the agency's extended processing is not completed within the 18 month period, the agency must submit documentation to show that the administrative hearing or litigation was in progress within this time frame.1/

C. EEOC Closure Action There is no independent closure action with respect to this Section.

1/ Note also the requirement at pp. 2-7 and 4-1 that for conciliation closures a copy of the "cause" finding must have been sent to EEOC upon issuance.

SECTION 2

REVIEW AND ACCEPTANCE OF STATE AND LOCAL AGENCY FINAL ACTIONS

I. Administrative Closures/Dismissals 3/

A. Withdrawals Without Settlement

1. Requirements for Acceptance

a. The request for withdrawal must be in writing.

b. There must be no indication of coercion or fear of retaliation.

c. Specific reference to the withdrawal of the EEOC charge as well as the contracting agency charge must be included.

2. Documentation Required (To be provided to EEOC at time of submission for contract credit)

a. Copy of closure letters sent to all parties to the charge.

b. Copy of withdrawal statement at Exhibit 2-A.

3. EEOC Closure Actions EEOC will issue an appropriate closure letter to respondent.4/ The Commission may continue to investigate the respondent, as it deems appropriate.

3/ Certain terminology utilized under Title VII and in state or local laws prohibiting age discrimination in employment is not applicable to EEOC administrative processing of the ADEA. Specifically, the ADEA does not provide for "dismissals" of charges. Nor does the concept of "withdrawal" of a charge have any legal significance, since the Commission has independent investigative authority. To the extent that this terminology is utilized by contracting agencies, it is included in this Manual to describe action taken by a contracting agency. The EEOC will continue to use its own terminology in closing cases.

4/ There is no necessity for EEOC to issue closure letters to charging parties, since they will be advised, upon transmittal of cases to contracting agency, that federal processing is terminated.

B. Unable to Locate Charging Party

1. Requirements for Acceptance

a. The agency must establish that it was unable to locate the charging party. Evidence of appropriate steps taken to locate the charging party would include the following: returned correspondence indicating that charging party had moved and left no forwarding address; contact with other sources in an effort to obtain a more current addre.s for charging party (e.g., telephone directory; EEOC; "contact person", etc.); continued efforts to contact charging party by regular mail or telephone if correspondence has been returned as "unclaimed".

b. The closure, in this instance, must be preceded by a letter from the agency which informs the charging party that the charge will be dismissed if there is no response within 30 days.

2. Documentation Required (To be provided to EEOC at time of submission for contract credit.)

a. Copies of closure letters sent to all parties.

b. Copies of returned envelope, mailgram or telegram showing that charging party has moved and left no forwarding address.

c. If charging party has not claimed previously sent certified mail, copies of the certified or registered correspondence to the charging party which was returned as "unclaimed" (including the envelope) and any follow-up correspondence sent by regular mail.

d. Verification that the State and/or local agency has attempted to contact charging party via contact person and that the contact person was not able to provide charging party's current address. If the agency sent written correspondence to the contact person, a copy of this correspondence must be submitted to EEOC; if the agency telephoned the contact person, a memo to the file stating the date and results of that telephone conversation must be submitted to EEOC.

e. Verification of other attempts to locate charging party (e.g., memos to the file indicating results of checking with telephone company, directory, the Post Office and the EEOC to determine if any of these has a more current address).

3. EEOC Closure Actions EEOC will issue appropriate closure letters to the respondent. The Commission may investigate the respondent, as it deems appropriate.

C. Failure to Cooperate with the Investigation (See Volume 1, Section 4 of the EEOC Compliance Manual.)

1. Requirements for Acceptance The closure must be preceded by a letter from the contracting agency to the charging party advising him/her that the case will be closed unless (s)he cooperates and requesting a response from the charging party. After thirty days the agency's closure letter may be sent to the charging party.

2. Documentation Required (To be provided to EEOC at time of submission for contract credit.)

a. Copies of closure letters sent to all parties.

b. Copies of agency's 30-day letter described above.

c. Copies of agency's final correspondence to charging party, including statement of information which was needed from charging party.

3. EEOC Closure Actions The EEOC will send appropriate closure letters to respondents. The Commission may investigate the respondent, as it deems appropriate.

D. Failure to Accept Full Relief (See Volume 1, Sections 4 of the EEOC Compliance Manual.)

1. Requirements for Acceptance

a. Full administrative relief is what the charging party would have obtained had (s)he prevailed in Federal Court excluding legal relief (e.g., liquidated damages, attorney's fees, etc.). The basic requirement for acceptance is that the charging party must have been offered full administrative relief and have been informed via a certified or registered letter, that the charge will be dismissed if the offer is not accepted within thirty days.

b. Written documentation of relief offered (letter from respondent) and of charging party's refusal (letter from charging party) or the agency investigator's report on such offer and refusal must be provided.

2. Documentation Required (To be provided to EEOC at time of submission for contract credit)

a. Copies of closure letters sent to all parties.

b. Investigator's report on offer and refusal or copy of written offer from respondent and refusal statements from charging party.

c. Copy of letter to charging party advising him/her that the charge would be dismissed after 30 days if s/he fails to accept full relief.

d. Verification that charging party received the certified or registered 30 day letter.

3. EEOC Closure Actions The EEOC sends appropriate closure letters to the respondent. The Commission may investigate as it deems appropriate.

E. Lack of Jurisdiction (See Volume 1, Section 4 of EEOC Compliance Manual.)

1. Requirements for Acceptance

a. EEOC will not give accepted closure credit for charges closed for lack of jurisdiction unless investigation was required to determine this lack of jurisdiction (i.e., the lack of jurisdiction was discovered because of [illegible] investigation which charging party could not reasonably [illegible] expected to provide at time of intake).

b. The lack of jurisdiction must apply not only to the State and local agency law but also to the EEOC.

2. Documentation Required (To be provided to EEOC at time of submission for contract credit.)

a. Copy of closure letter(s) sent to all parties.

b. Detailed memorandum explaining the rationale for closure for lack of jurisdiction and specifying how this lack of jurisdiction also applies to EEOC.

c. Documentation as necessary (e.g., a charge closed because respondent does not meet the requirement of 20 employees should include copies of whatever payroll records or summaries thereof which were used to establish this lack of jurisdiction).

3. EEOC Closure Actions The EEOC will send appropriate closure letters to the respondent.

II. No Cause Closure

A. While EEOC does not issue final "no cause" determination letters under the ADEA, cases may be closed where the evidence gathered does not indicate a violation of the Act. However, the Commission will accept for contract credit a contracting agency's "no cause" closure which meets the standards set forth below.

1. Requirements for Acceptance To accept a contracting agency's "no cause" determination as sufficient reason to close a charge initiated case, the Commission requires that the decision to close the case be based upon the same rationale the Commission would use to discontinue processing of its own charges of age discrimination. Areas that will be closely reviewed by EEOC include:

a. Were all issues raised in the charge fully investigated?

b. Have relevant witnesses been interviewed?

c. Has the investigation determined respondent's stated policy and actual employment practices insofar as such policies and practices are related to the charge?

d. Has the investigation looked into comparative treatment of similarly situated co-workers or has adverse impact been measured?

e. Has the best verification of respondent's defense been obtained? This verification should normally be in the form of respondent's documents, but personal observations by the contracting agency investigator can at times suffice, provided that such observations are reduced to detailed notes.

f. Have disputed facts been resolved?

g. Has the charging party been given ample opportunity to rebut respondent's defense(s), and is such rebuttal not sufficiently compelling to constitute reason to believe that respondent's statements are pretextual?

h. Is the finding or decision to terminate processing consistent with the ADEA and the Commission's interpretive guidelines?

2. Documentation Required For the present, it will be necessary to have the entire agency case file available at time of review. Agencies and the EEOC Field Offices will negotiate whether the reviews will be conducted at EEOC or whether the file or copies thereof will be transmitted to EEOC for review and retention, or returned to the agency. If the agreement does not authorize the EEOC to retain either the original or a copy of the entire file, arrangements must be made for the copying of certain basic documents from the agency file for retention with the EEOC file. These documents will include copies of:

a. Closure letter(s) sent to all parties.

b. The investigator's memorandum or case closing recommendation.

c. The table of contents, if any.

d. Any documents or other information deemed especially relevant.

3. EEOC Closure Actions The EEOC will send appropriate closure letters to the respondent.

III. Settlement Closures

A. Negotiated Settlements (See Volume 1, Section 15 of the EEOC Compliance Manual.)

1. Requirements for Acceptance

a. Written agreement clearly defining the terms of the agreement and signed by both charging party and the respondent, as well as by the contracting agency representative.

b. Verification that the terms of the settlement have been met (e.g., a copy of the check, copy of the reference to be provided to charging party by the respondent, payroll records showing reinstatement, etc.). If the benefit will occur after the signing of the agreement (e.g. charging party to be hired at a future date), the agreement must provide that respondent will notify the agency within a specified period of time after the terms have been met as to its compliance with the terms of the agreement.

2. Documentation Required (To be provided to EEOC at time of submission for contract credit.)

a. Copy of closure letter(s) sent to all parties.

b. Copy of the agreement.

c. Copy of document used to indicate that charging party requested closure of the EEOC charge (or contracting agency memorandum as to why this was not obtained).

d. Copy of whatever verification is available that respondent has met or will meet the terms of the agreement.

e. Description and computation of benefits.

3. EEOC Closure Actions The EEOC will send appropriate closure letters to the respondent. The Commission may investigate the respondent as it deems appropriate.

B. Withdrawals with Settlement The only difference between negotiated settlements and a withdrawal with settlement is that a negotiated settlement contains a formal agreement signed by charging party, respondent and the agency, whereas a withdrawal with settlement is based solely on the charging party's request for withdrawal. Although a negotiated settlement agreement may take slightly longer to obtain, it is more desirable in that it provides more protection for the charging party, for example: The terms of the settlement are clearly identified; there is usually a prohibition against retaliation; respondent has signed the agreement to signify that respondent understands and intends to comply with the terms of the settlement; and most important, settlement agreements are easier to enforce than are the terms contained in a withdrawal with settlement. Nonetheless, if the agency is unable to obtain such a settlement agreement, but is able to obtain a withdrawal statement from charging party, the action, if accepted, will be accorded the same weight as a negotiated settlement, provided there is a clear and full description of the benefits either as part of the withdrawal statement itself or contained in a separate document provided by the agency.

1. Requirements for Acceptance

a. The withdrawal request must be in writing.

b. There must be no indication of coercion or fear of retaliation.

c. There must be a clear and full description of the benefits.

2. Documentation Required (To be provided to EEOC at time of submission for contract credit.)

a. Copy of closure letters sent to all parties.

b. Copy of withdrawal statement at Exhibit I-A.

c. Description of benefits and computation as to both immediate and accrued monetary value.

3. EEOC Closure Action The EEOC will send appropriate closure letters to the respondent. The Commission may investigate the respondent, as it deems appropriate.

C. Successful Conciliation (Agreements between contracting agency and respondent after a determination on the merits of the case.)

1. Requirements for Acceptance The initial proposal to the respondent must be for full relief for all individuals determined by the contracting agency investigation to be entitled to relief. The final conciliation agreement, however, may sometimes contain provision for less than full relief. A copy of the "cause" finding must have been sent to EEOC upon issuance.

a. Written agreement clearly defining the terms of the agreement and signed by both respondent and charging party(ies) and a representative of the contracting agency.

b. Verification that the terms of the agreement have been met (e.g., a copy of the check, copy of the reference to be provided to charging party by the respondent, payroll records showing reinstatement). If the benefits will occur after the signing of the agreement (e.g., charging party to be hired at a future date), the agreement must provide that respondent will notify the contracting agency within a specified period of time after respondent has complied with the terms of the agreement.

2. Documentation Required (To be provided to EEOC at time of submission for contract credit.)

a. Copies of closure letters if sent.

b. Conciliation agreement (copy).

c. Copy of investigator's memorandum/report and agency "cause" finding.

d. Copy of whatever verification is available that the respondent has met or will meet the terms of the agreement.

e. Description and computation of benefits if this is not fully contained in the conciliation agreement.

3. EEOC Closure Actions The EEOC will send appropriate closure letters to the respondent. The Commission may continue to investigate the respondent, as it deems appropriate.

SUGGESTED SAMPLE

REQUEST FOR WITHDRAWAL OF CHARGE OF DISCRIMINATION

You recently indicated a desire to withdraw your charge. In order to initiate such action, please furnish the information below and return in the enclosed envelope.

Charging Party Name: _____ FEP Agency Charge #: _____

Respondent(s) Name: _____ EEOC Charge #: _____

CHARGING PARTY COMPLETE INFORMATION BELOW (Continue on reverse if necessary).

I am aware that the EEOC and the ___(Name of Agency)___

protect my right to file a complaint. I have been advised that it is unlawful for any person covered by the Age Discrimination in Employment Act of 1967, as amended, to threaten, intimidate or harass me because I have filed a complaint. I have not been forced to request this withdrawal.

(Check if appropriate): Also, I have been advised that it is unlawful for any person covered by the enabling legislation of the ___(Name of Agency___ to threaten, intimidate or harass me because I have filed a complaint.

I request the withdrawal of my charge because _____

_____

_____

_____

_____

I wish to withdraw my charge filed with the ___(Name of FEP Agency)___

_____(Signature)_____ _____(Date)_____

EXHIBIT 2-4

SECTION 3

PROCEDURES TO BE FOLLOWED AFTER AN EEOC REJECTION OF AN FEP AGENCY'S FINAL ACTION

The procedures for rejections of FEP Agencies final actions on ADEA charges are identical to the procedures for rejections of Title VII charges. Refer to Section 3 of Appendix A of this Order for the complete text.

SECTION 4

REVIEW FOR ADDITIONAL CREDITS

Contract credit will be also given for certain types of cases as follows:

I. Opportunities to Correct Deficiencies Although EEOC originally rejected the FEP Agency's final action, contract credit will be granted when the agency submits the additional information needed to meet the review standards in this manual. (See Section 3 of Appendix A for the procedures to be followed.)

II. Unsuccessful Conciliations (Failure to obtain agreement after full exhaustion of all FEP Agency internal administrative processes, including hearing and internal appeal, litigation.)

A. Requirements for Acceptance The Commission will accept unsuccessful conciliations only where it is clear that charges have been given full administrative processing under the applicable State or local law. A copy of the "cause" finding must have been sent to EEOC upon issuance.

The basic requirement is that EEOC must be able to accept the cause finding issued by the agency prior to its unsuccessful conciliation. If the decision to pursue the charge to hearing or litigation is optional with the contracting Agency, the agency must provide written notification to EEOC that it is not pursuing the charge beyond the unsuccessful conciliation and provide an explanation as to why this decision was made.

B. Documentation Required The entire case file will be needed as EEOC must be able to make the determination as to whether it concurs with the finding of reasonable cause. As with no cause cases, it will be left to negotiation between the agency and the EEOC Field Office as to how the file will be obtained for review. The charge file must contain evidence that the administrative procedures prescribed under the applicable statute have been completed to the extent required.

C. EEOC Closure Action The EEOC will send appropriate letters to the respondent. The Commission may take further action against the respondent as it deems appropriate.

III. Other Credit: Charging Party Sues in Court

Credit for the FEP Agency's processing of charges where Charging Party elects to pursue private litigation rights will be given only when the agency has done "substantial" investigation on the charge (see Appendix A of this Order) before the court action is filed.

A. Requirements for Acceptance The allegations set forth in the complaint filed in State or Federal court shall be substantially the same allegations appearing on the administrative charge.

B. Documentation Required (To be provided to EEOC at time of submission for contract credit.)

1. Copies of closure letters sent to all parties.

2. Copy of the complaint filed in court.

3. Evidence of substantial investigation.

C. EEOC Closure Action The EEOC will send appropriate closure letters to respondent. The Commission may take further action against the respondent, as it deems appropriate.

SECTION 5

REQUIREMENTS FOR REPORTING ADEA CHARGES

Final actions submitted by FEP Agencies for ADEA contract credit must meet the processing requirements described in Section 1 of this manual and the requirements appropriate to each closure type described in Sections 2 and 4 of this manual.

I. FEP Agency Monthly Contract Reports In addition to the required documentation in support of the agency's final action on each ADEA charge submitted for contract credit, the FEP Agency is required to submit the following reports to EEOC on or before the 8th day of each month reporting the previous month's production:

A. A completed EEOC Form 32[illegible], FEP Agency Monthly Performance Report, Exhibit 5-A, marked "ADEA Contract".

B. A completed EEOC Form 472-A, FEP Agency Charge List-ADEA, Exhibit 5-B, including the following information for each final action submitted:

1. Charging party's name
2. Respondent's name
3. EEOC and FEP Agency charge numbers
4. Type and date of agency closure action
5. Number of elapsed days from (a) the date of agency filing or receipt from EEOC to the 7(d) conciliation attempt and (b) the date of alleged violation to the date of the agency's final action, including internal appeal periods.
6. Itemized benefits using EEOC ADEA Benefit Codes, Exhibit 5-C, and noting the number of persons benefitted.

A section on EEOC Form 472-A, for number of processing days and for EEOC actions taken, is reserved for EEOC use.

II. EEOC Action Upon Receipt of Required Documentation Field Office files of all charges listed on Form 472-A should be pulled in preparation for reviews of agency final actions submitted for contract credit.

A. EEOC Forms 214/215, 706 Agency Case Dismissal/Settlement Action, Exhibit 5-D and 5-E will be used in review of final actions as appropriate. (See Section 2, Appendix A, of this Order for procedures to be followed when utilizing EEOC Forms 214/215.)

B. Completing EEOC Form 472-A After review of the required documentation submitted in support of the FEP Agency's final action, Form 472-A should be completed as follows:

1. Verify the accuracy of the information entered by the agency for each final action submitted for contract credit.

2. Note the number of processing days for each charge, calculated from the date of EEOC's receipt of the charge to the date of the agency's final action including any internal appeal period. (FY 81 ADEA charge resolutions are not assessed for number of processing days.)

3. Under EEOC action enter "accept" or "reject," date of action and reviewer's initials.

C. Correcting EEOC Form 322 After all files on Form 472-A are either accepted, rejected, or annotated as pending review, use the completed Form 472-A to correct the statistics for the reporting month on Form 322. The cumulative statistics should then be cross checked with the previous month's Form 322. Any charge which is not eligible for contract credit (i.e., not dual-filed, not a transmittal) should be deleted from the Form 322 with an explanation in the narrative section.

D. Preparing EEOC Form 471 EEOC Statistical Report on FEP Agency Contract Performance, EEOC Form 471, Exhibit 5-F has been redesigned to accommodate Title VII reporting from Certified FEP Agencies. This same Form 471 will be utilized to report Title VII charge resolutions from non-certified FEP Agencies and to report ADEA charge resolutions from all FEP Agencies (ADEA charges are excluded from certification).

ADEA charge resolutions will be reported as reviews in Section C, Contract Credits. Section E-3, Charges Sent to Office of Policy Implementation is not applicable to ADEA charges. Section H, Quarterly Acceptance Rate; Section I, Administrative Closure Rate, and Section J, Settlement Rate are also inapplicable at this time.

III. Distribution of Completed Reports

A. Headquarters By the 15th of each month, a copy of the corrected Form 322 and Form 471 should be mailed to the State and Local Division in Headquarters.

B. FEP Agency By the end of each month, a copy of each corrected Form 322 and Form 471 should be sent to the FEP Agency.

"Information requested is not subject to Section 3507 of Public Law 96-511, Paperwork Reduction Act."

FEP AGENCY - MONTHLY PERFORMANCE REPORT

Section H of the EEOC Contract (SF 34) requires that this report be filed by the 5th day after the end of the reporting month. Prepare an original and one (1) copy: Original to EEOC District Office and copy retained by the FEP Agency.

NAME OF FEP AGENCY		MONTH/YEAR OF REPORT
CONTRACT NUMBER	EFFECTIVE DATE OF CONTRACT	CONTRACTED RESOLUTIONS

Title VII Contract ☐ ADEA Contract ☒	TOTAL FOR REPORTING MONTH (a)	CUMULATION FROM EFFECTIVE DATE OF CONTRACT THRU REPORTING MONTH (b)	WRITE IN THIS SPACE (EEOC USE)
1. Number of Charges filed with the Agency that fall within the jurisdiction of Title VII or ADEA.			
2. Number of Charges sent (dual filed) to EEOC by the Agency (Total of a and b below)			
a. Number to be Processed by the Agency.			
b. Number to be Processed by the EEOC.			
3. Number of Charges Deferred/Transmitted to the Agency by EEOC (Total of a and b below)			
a. Number Accepted by Agency for Processing.			
b. Number Returned to EEOC for Processing.			
4. Final Actions on Individual Charges Submitted to EEOC (Total a thru g below)			
a. Administrative Closures (Total (1) thru (6) below)			
(1) Withdrawal Without Settlement			
(2) Unable to Locate CP			
(3) Failure to Cooperate			
(4) Failure to Accept Full Relief			
(5) Lack of Jurisdiction (Enter only if data applicable to EEOC and is based on information not available at intake.			
b. No Cause Findings (Include orders for Respondent)			
c. Negotiated Settlements			
d. Withdrawal with Settlement			
e. Successful Conciliations			
f. Cases Issued for CP			
g. Additional Credits			
5. Opportunity to Correct Deficiencies			
6. Appeals			

7. Narrative: Comments on Other Benefits from Settlements etc., Contract Operation, Production, Acceptance Rate Problem Areas, and Special Accomplishments. (If more space is needed, use reverse.)

SIGNATURE OF FEP AGENCY OFFICIAL	TELEPHONE NO. (Include Area Code)	DATE

EEOC Form 274

FEP AGENCY CHARGE LIST – AGRA			REPORTING MONTH/YEAR:				
			FISCAL YEAR:		ESTIMATED RESOLUTION:		
FEP AGENCY:			EEOC FIELD OFFICE:				
CHARGING PARTY VS. RESPONDENT	EEOC CASE NUMBER	TYPE OF CLOSURE AND DATE	ELAPSED DATE: From Filing Transferred to FA	ELAPSED DATE: From Alleged Violation to Final Action	ITEMIZED AMOUNTS (AGRA)	RESERVED FOR EEOC: # Processing Days	RESERVED FOR EEOC: EEOC Action Taken
REVIEWER SIGNATURE:						DATE:	

EEOC Form 472A
Feb 82

PAGE ___ OF ___ PAGES

Exhibit 5-B

AGRA MONETARY BENEFIT CODES

Backpay Recoveries[1/2/]

501 Refusal to Hire - Respondent

502 Promotion/Promotion - Respondent

503 Termination (incl. layoff, involuntary retirement) - Respondent

504 Retaliation - Respondent

505 Compensation (incl. pension & severance pay income) - Respondent

506 Illegal Advertising - Respondent

507 Fail to refer to job - Employment Agency or Union

508 Exclude/Expel from Membership Office - Union

Primary Benefits

511 New Hire - Annual amount of wages to be paid[3/]

512 Promotion (includes reinstatement from demotion or part-time job and equalization of pay for equal work) - Annual amount, difference between old and new wages to be paid

513 Reinstatement (from termination, incl. retaliation) - Annual amount, wages to be paid

514 Alternate Remedies - Gross amounts paid, before income taxes, in the event that agreement is reached, or a court finds, that employment (511), promotion (512), or reinstatement (513) would not be (or cannot be - as would often be the case with backpay codes 506-508) a suitable resolution. Such amounts are not subject to employment taxes, e.g., FICA.

1/The total amount paid, before any withholding deductions.
2/Backpay includes, for reporting purposes, amounts due which accrue from the time of agreement or judgment to the time of actual employment, promotion or reinstatement (some often referred to as "front pay").
3/"Annual amount" is defined as total amount to be paid over the year following the date of actual employment, promotion or reinstatement, incl. value of fringe benefits (reasonable fringe estimates may suffice with adequate documentation in file).

Exhibit 5-C

ADEA MONETARY BENEFIT CODES (Cont.)

Fringe Benefits[1/]

321 Pension - Annual amount - increase in union payments or increased contributions to the pension fund

322 Insurance (Health, Life, etc.) - Annual amount contributed

323 Severance - Total amount

324 Legal Fees - Actual Cost

325 Other

ADEA/EPA NON-MONETARY BENEFIT CODES

201 Interviewed

202 Tested for hire/promotion

203 Offered training

204 Letter of reference

205 Job Referral - Employment Agency

206 Job Referral - Union

207 Work duties changed

208 Transferred

209 Seniority retained in transfer

210 Hours Adjusted

211 Religious Accommodation

212 Adverse material removed from record

213 Admitted to membership in union

214 Reinstated to membership in union

215 Apprenticeship

216 Promised interview

217 Promised next opening

218 Promised reinstatement

219 Promised consideration for promotion

220 Promised referral

221 Penalties imposed on supervisors or managers who discriminate

222 Instruction/dissemination of non-discriminatory policy

223 Recruitment/advertising practices changed

224 Hiring policies/procedures changed

225 Promotion policies/procedures changed

226 Seniority/lines of progression changed

227 Systematic evaluation procedures established

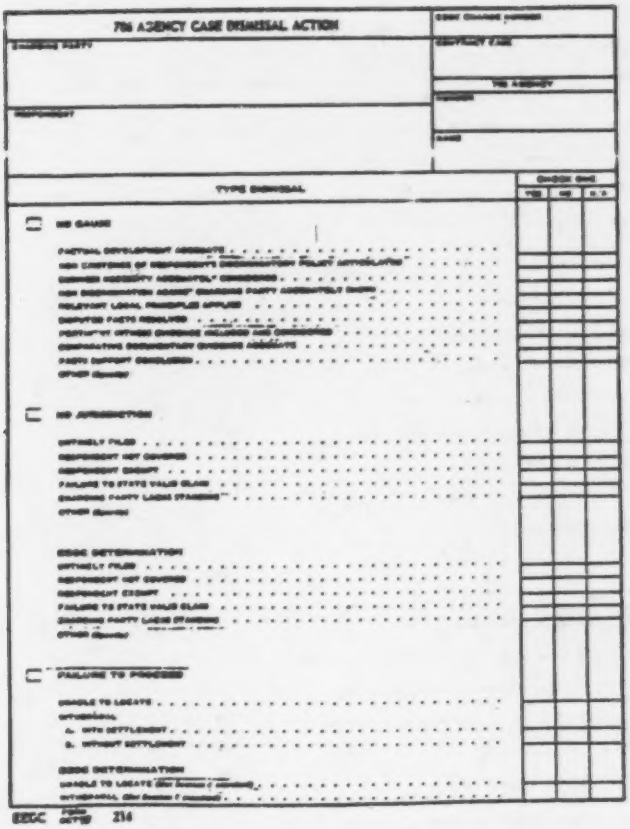
228 Job training program established

229 Counseling program established for minorities/women

230 Other

235 Maternity Policy changed

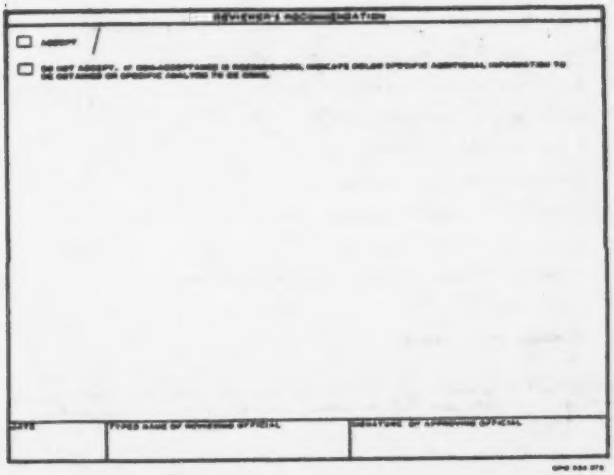
1/ADEA fringe benefits will only be reported when the level of benefits was the issue, e.g., no life insurance to persons over 65, lower pensions paid to women, etc.



716 AGENCY CASE DISMISSAL ACTION

EEOC FORM 0PTB 214

Exhibit 5-D



REVIEWER'S RECOMMENDATION

AGREE

DO NOT AGREE. IF DISAGREEMENT IS DETERMINED, INDICATE BELOW SPECIFIC ADDITIONAL INFORMATION TO BE OBTAINED OR SPECIFIC ANALYSIS TO BE MADE.

DATE | TYPED NAME OF REVIEWING OFFICIAL | SIGNATURE OF REVIEWING OFFICIAL

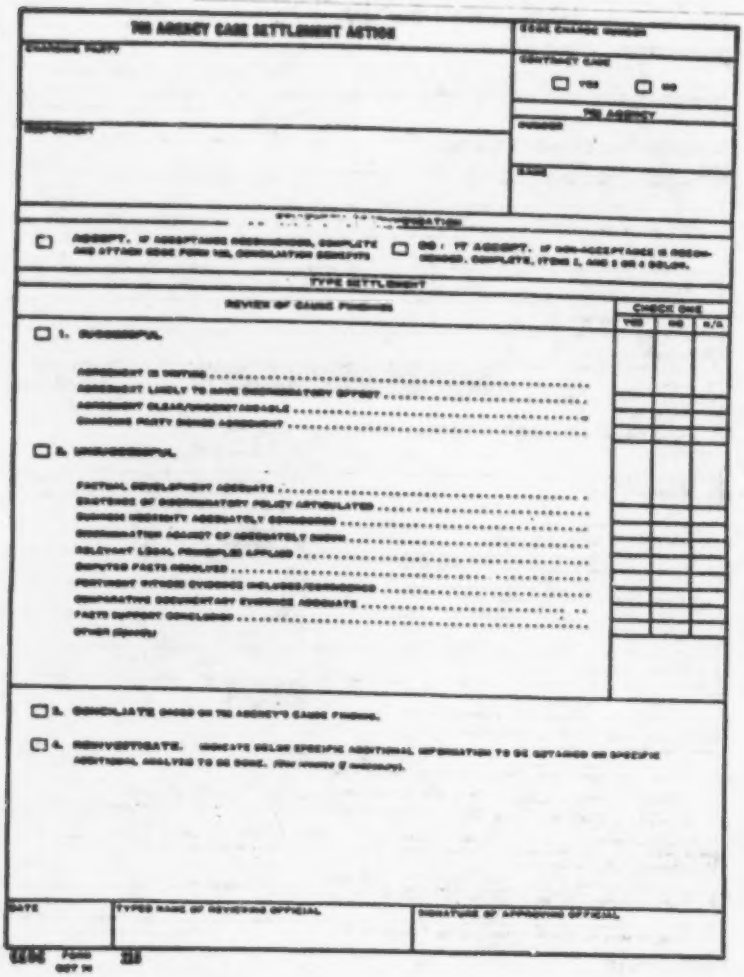


Exhibit 5-E

EEOC STATISTICAL REPORT ON FEP AGENCY CONTRACT PERFORMANCE

REPORT CONTROL SYMBOL
EEOC-FEP-1 (9/81) MD

NAME OF FEP AGENCY

Check One:
☐ Title VII Contract ☐ ADEA Contract

EEOC FIELD OFFICE

REPORT MONTH/YEAR

FISCAL YEAR/SPECIAL QUARTER

CONTRACTED RESOLUTIONS

A. Pending Reviews at Beginning of Report Month:

B. Final Actions Received for: Report Month _____ Cumulative Thru Report Month _____

C. Contract Credits	CERTIFIED ACCEPTANCES		REVIEWS				
			REPORT MONTH		CUMULATIVE THRU REPORT MO.		
	REPORT MONTH	CUMULATIVE	NUMBER ACCEPTED	NUMBER REVIEWED	NUMBER ACCEPTED	NUMBER REVIEWED	%
1. Administrative Closures							
2. No Cause Closures							
3. Settlement Actions							
4. Appeals							
5. TOTAL							

D. Average Processing Days of Total Number Accepted (Cumulative):
Total Days _____ Average Days _____

E. Additional Credits	REPORT MONTH		CUMULATIVE CREDITS THRU REPORT MONTH
	REVIEWED	CREDITED	
1. Opportunity to Correct Deficiencies			
2. Unsuccessful Conciliations (Cause Finding Accepted)			
3. Charges Sent To Office of Policy Implementation			
4. Other			
5. TOTAL Additional Credits			
F. TOTAL CONTRACT CREDITS			

G. Pending Reviews at End of Report Month:

QUARTERLY REPORT

H. Quarterly Acceptance Rate (Certified Agencies Only/By Quarter)
Reviews Accepted _____ Divided By # Reviewed _____ = _____ %

I. Administrative Closure Acceptance Rate (Cumulative)
No Jurisdiction _____ + # Unable to Locate _____ Divided By Total # Accepted _____ = _____ %

J. Settlement Rate (Cumulative)
#Accepted Settlements _____ Divided By Total # Accepted _____ = _____ %

K. Total # of Persons Who Benefitted from Settlement Actions (Cumulative): _____

L. Total Monetary Value of Settlement Actions (Cumulative) $ _____

EEOC Form FEP 411

Exhibit 5-F

JOHN MELCHER, MONTANA, CHAIRMAN
JOHN GLENN, OHIO
LAWTON CHILES, FLORIDA
DAVID PRYOR, ARKANSAS
BILL BRADLEY, NEW JERSEY
QUENTIN N. BURDICK, NORTH DAKOTA
J. BENNETT JOHNSTON, LOUISIANA
JOHN B. BREAUX, LOUISIANA
RICHARD SHELBY, ALABAMA
HARRY REID, NEVADA
JOHN HEINZ, PENNSYLVANIA
WILLIAM S. COHEN, MAINE
LARRY PRESSLER, SOUTH DAKOTA
CHARLES E. GRASSLEY, IOWA
PETE WILSON, CALIFORNIA
PETE V. DOMENICI, NEW MEXICO
JOHN H. CHAFEE, RHODE ISLAND
DAVE DURENBERGER, MINNESOTA
ALAN K. SIMPSON, WYOMING
MAX I. RICHTMAN, STAFF DIRECTOR
G. LAWRENCE ATKINS, MINORITY STAFF DIRECTOR

United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

August 15, 1988

The Honorable John Heinz
Ranking Minority Member
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Senator Heinz:

This letter is to inform you, pursuant to Rules 4.2 and 6.1 of the Rules of this Committee, of my intention to issue a subpoena pursuant to Rule 4.2, accompanied by a Notice of Taking Deposition pursuant to Rule 6.1, to Ms. Paula Montanez of the headquarters office of the Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20507.

The information and documentation to be sought from that person relate to verified allegations of intimidation, harrassment and retaliation involving Ms. Lynn Bruner and her subpoenaed testimony before this Committee on June 23, 1988 in connection with this Committee's oversight investigation of the administration and enforcement of the Age Discrimination in Employment Act by the Equal Employment Opportunity Commission.

Any questions about this matter should be directed to Max I. Richtman, Committee Staff Director, at the Committee office, 224-5364.

Sincerely,

John Melcher

Chairman

JOHN MELCHER, MONTANA, CHAIRMAN
JOHN GLENN, OHIO
LAWTON CHILES, FLORIDA
DAVID PRYOR, ARKANSAS
BILL BRADLEY, NEW JERSEY
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MAX I. RICHTMAN, STAFF DIRECTOR
G. LAWRENCE ATKINS, MINORITY STAFF DIRECTOR

United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

August 16, 1988

Ms. Paula Montanez
Equal Employment Opportunity Commission
2401 E Street, N.W.
Washington, D.C. 20507

Dear Ms. Montanez:

You have been subpoenaed by this Committee for the purpose of enabling this Committee to obtain your sworn testimony by deposition concerning the matters described and referred to in the subpoena and Notice of Senate Deposition served on you.

Should anyone, at any time prior to your deposition, attempt to corruptly, or by threats of force, or by any threatening letter or communication influence, obstruct, or impede or endeavor to influence, obstruct, or impede your testimony in deposition, you are requested to immediately report any such activities to this Committee. It is my duty to inform you that these activities are prohibited by Sections 18 USC 1505 and 18 USC 1512 of the U.S. Criminal Code.

Further, should anyone, at any time prior to or following your testimony in deposition, engage in retaliation and harassment against you for your testimony in deposition, you are requested to immediately report any such activities to this Committee. It is my duty to inform you that these activities are prohibited by Sections 18 USC 1513 and 18 USC 1514 of the U.S. Criminal Code.

Enclosed are photocopies of the relevant sections of the Criminal Code. Should you have any questions regarding your appearance for deposition, please contact Max I. Richtman, Committee Staff Director, at (202) 224-5364.

Thank you for your cooperation and assistance.

Sincerely,

John Melcher

Chairman

Enclosures

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF
THE CHAIRMAN

SEP 15 1988

The Honorable John Melcher
Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter is in response to your recent request, delivered by Lloyd Duxbury of your staff, that I describe my findings as to how Xerox obtained the information that EEOC had terminated its proceedings in the Lusardi lawsuit, as reported on the company's March 31, 1986 Form 10-Q.

I first learned Xerox had been advised informally that the EEOC had terminated its proceedings in this matter at the September 10, 1987 hearing before the Senate Special Committee on Aging when the subject arose in a question you asked me.

I asked EEOC's General Counsel Charles Shanor to investigate how Xerox had obtained its information. A memorandum from Mr. Shanor describing his investigation is attached.

Also attached is a memorandum written by Paul D. Brenner, attorney in the Office of General Counsel at EEOC, which describes what occurred on the occasion when he informally discussed with a Xerox representative whether EEOC would litigate. I hope this reasonable and innocent explanation for the appearance of the notation on Xerox's Form 10-Q is satisfactory.

In a related matter, I would like to register my vigorous objection to your staff providing the confidential tape of a closed Commission meeting to ABC's 20/20. That particular tape contained the Commission's deliberations in closed session on whether to institute suit against Xerox.

This objection concerns pre-publication release of confidential and privileged information by Committee staff, not the publication of such information in the hearing record by the Committee. In prior correspondence, I have listed EEOC's objections to the Committee's decision to publish this information in the hearing record. I will only add, at this time, that the Committee's publication of the Commission meeting transcript constitutes a vivid example of the damage caused by the Committee's disregard of legitimate assertions of privilege.

In the transcript, individual views are expressed, hypothetical factual situations are discussed and theoretical lines are drawn on the continuum of possible employer actions. This now publicly available transcript can be used by employers as a road map to structure their actions so as to avoid future Commission scrutiny.

The tape is covered by the general governmental deliberative privilege against the disclosure of pre-decisional discussions and deliberations which permits decisionmakers to explore all avenues of inquiry, to freely exchange ideas and to candidly state opinions. Further, the Government in Sunshine Act exempts from public disclosure any matter relating to an agency's decision whether to participate in a lawsuit. (5 U.S.C. subsection 552 b(c) (10)). This statutory exemption shares the same purpose as the general governmental deliberative privilege and protects the law enforcement decisions of the Commission from disclosure; i.e., prevents disclosure of standards or theories used in the prosecutional decision making process so that companies cannot structure their operations to avoid prosecution of statutory violations.

At the time EEOC provided the tape to you under subpoena, we advised your staff of its confidentiality. Nevertheless, your staff provided it to a major television network, which then spliced together words and phrases for broadcast out of context.

I also object to your staff providing at least one print media outlet that I am aware of, with confidential information obtained by the Committee from EEOC.

Although I understand that the Office of Senate Legal Counsel advised you that the Committee could publish any confidential or privileged information it obtained from EEOC as part of the hearing record if such publication would further its oversight mission, there does not appear to be any basis or authority cited in that opinion for individual Committee staff or Members to release copies of such information or for earlier dissemination of such information to selected media outlets. Because we were not informed by the Committee until July 1988 that the information would be published as part of the hearing record, I would like to know how, when, and by what authority a copy of the tape recording of the Commission meeting that was supplied to the Committee under a claim of privilege was disclosed before July 1988 to ABC's 20/20.

Sincerely,

Clarence Thomas
Chairman

Attachments

cc: Members, Senate Special Committee on Aging

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Office of
General Counsel

August 11, 1988

MEMORANDUM

TO : Deborah J. Graham
Director of Communications and Legislative Affairs

FROM : Charles A. Shanor CAS
General Counsel

SUBJECT : Request for Senate Aging Committee

The purpose of this memo is to describe my investigation concerning how Xerox was "informally advised that the EEOC has terminated its proceedings" in the Lusardi lawsuit.

Chairman Thomas called me in early March, 1988 to suggest that I speak with a lawyer at Xerox concerning the company's source of information about EEOC's involvement in Lusardi. He provided me with the phone number for a Mr. Banks on Xerox's legal staff. When I phoned Mr. Banks, he was out of his office.

On March 9, 1988, Mr. Banks returned my call. He told me that both Chairman Thomas and Bill Glavin were on the Board of Directors of Holy Cross College; that Xerox had received an L.O.V. from EEOC prior to taking any evidence or testimony concerning alleged ADEA violations by Xerox; that Glavin informally asked Thomas if he would review the matter to see whether proper procedures had been followed; and that no further communications came thereafter from EEOC concerning the status of the case.

Banks said that, at some point thereafter Paul Brenner, a staff lawyer in the Office of General Counsel, appeared on a program with Bill Zifchak of the Kaye, Scholer firm (outside counsel for Xerox in the Lusardi case). Zifchak, according to Banks, told Brenner that there was "pressure from the judge" in Lusardi concerning whether EEOC was going to be involved. To this, Brenner responded "I can't say much but I don't think EEOC is going forward" and that Zifchak "could tell the judge no participation by EEOC" with respect to the Lusardi time frame. While there was no formal notification by EEOC, Xerox advised the judge of EEOC nonparticipation based upon Brenner's comment. Banks noted that Xerox had included the "informally advised" comment in its 1985 Annual Report because the 1984 Annual Report had referenced the 1984 L.O.V.

In response to my questioning, Banks told me that neither Glavin nor anyone else at Xerox of whom he was aware had received any promises from Chairman Thomas concerning the case and that Paul Brenner was the sole source of Xerox' information about the case. Banks also assured me that Xerox would respond fully about the case and the Annual Report statement if asked to do so by the Senate.

Following my telephone discussion with Mr. Banks, I asked Paul Brenner to report to me what contacts he had with Xerox concerning the Lusardi case and what else he knew about the case. Paul's oral report to me was consistent with the written statement (attached) which he later provided in response to your memorandum. As discussed in Paul's memorandum, the only matter discussed by Paul concerned EEOC possible intervention in the private class action in Lusardi, not the Xerox case involving a different time period, which was subsequently considered by the Commission.

Attachment

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Office of
General Counsel

AUG - 4 1988

MEMORANDUM

TO : Charles A. Shanor
General Counsel

FROM : Paul D. Brenner
Attorney (ADEA) Paul Brenner

RE : Statement on the Xerox case

This is in response to the request that I provide a statement "describing exactly what was said and/or done on the occasion that [I] informally discussed with a Xerox representative whether EEOC would litigate" Age Discrimination in Employment Act (ADEA) claims against the Xerox Corporation. The following statement constitutes my recollection of the matter, as to which I do not have--and have never had--any letters, memoranda or notes.

I am fairly certain that my involvement in this matter began in January 1986, on the day of the Challenger Space Shuttle disaster. I was a participant in an EEO law conference, at which I spoke on the subject of the ADEA. Another speaker at the conference was William ("Bill") Zifchak, an attorney with a large New York law firm, with whom I was already acquainted. I had met him at an earlier conference, and I think that he was chairman of the City Bar Association's committee on labor law.

During my speech, I discussed Lusardi v. Xerox Corporation, as an example of a private "opt-in" class action under the ADEA. I probably discussed the procedural aspects, and the mechanics of EEOC intervention or direct suit in such actions. I do not recall if I discussed the merits or status of the Lusardi case, with which I was quite familiar.

After my presentation, Mr. Zifchak spoke with me about the Lusardi case. He said that his firm represented Xerox. I think that he asked whether the statements which I made during my speech indicated that EEOC was still considering intervention. I told him, in more or less definite terms, that EEOC was not considering intervention. I am sure that I discussed the entire litany of problems with Lusardi intervention: the statute of limitations bar affecting new claimants, the fact that private counsel already represented most of the class, the masssive size and scope of the action, EEOC budget limitations, etc.

Some time after the conference, a matter of days at most, Mr. Zifchak called me about the Lusardi case. I think that he said the issue of possible EEOC intervention had been raised in the U.S. district court proceedings. I think that he asked whether Xerox could represent to the court that EEOC was not considering intervention. I am not sure whether I gave him an answer during this conversation, or whether I said that I would check and call back.

I feel fairly certain that I told Mr. Zifchak, either then or later the same day, that there was nothing official from the Commission or the Office of General Counsel on the matter. I also feel fairly certain that I then went on to say that, nonetheless, EEOC was not considering intervention in the Lusardi case. Based on my past practice, it is likely that I told him that I did not object to being cited for such an obvious fact, so long as it was understood that I did not speak for the Commission or for the Office of General Counsel.

The information which I conveyed to Mr. Zifchak was based on my knowledge of the Lusardi action and EEOC's handling of the Xerox case. In addition, on the same day as my conversation with Mr. Zifchak, I went to speak with Leroy Jenkins, an EEOC supervisory attorney on the Xerox case. (I think that Carlton Preston, an EEOC trial attorney on the Xerox case, was present.) I said that I had received an inquiry as to whether EEOC was still considering intervention in Lusardi. I am fairly certain that Mr. Jenkins confirmed my understanding that intervention was not under consideration. (I cannot remember whether I spoke with Leroy Jenkins before or after I told Mr. Zifchak that EEOC was not considering intervention.)

During my conversations with Mr. Zifchak, I discussed only the question of possible EEOC intervention in the Lusardi lawsuit. I am absolutely certain that I said nothing about any possible EEOC action covering the post-Lusardi period; i.e., for ADEA claims arising after March 31, 1983. I would not have said that EEOC had "terminated its proceedings" on post-Lusardi claims, or anything else that would have conveyed such a misimpression, because I knew that such claims were being developed for possible litigation by the Commission. Indeed, I think that I made it clear to Mr. Zifchak that EEOC was still actively considering post-Lusardi claims and that I could not discuss such claims.

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United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

October 17, 1988

The Honorable Clarence Thomas
Chairman
Equal Employment Opportunity Commission
Washington, D.C. 20507

Dear Chairman Thomas:

As Chairman of the Special Committee on Aging, I am writing to request your assistance in obtaining certain information essential to the Committee's on-going investigation of the EEOC's enforcement of the Age Discrimination in Employment Act.

Specifically, I am requesting that you provide to the Committee, by the close of business on October 28, 1988, the numbers of ADEA charges that have exceeded the two-year statute of limitations in each of the EEOC's 48 district, area, and local offices from April 8, 1988 through September 30, 1988. My request for this information was prompted by testimony of one of your managers, Jacquelyn Shelton, in a Committee deposition on August 24, 1988. Responding to a question, Ms. Shelton stated: "Yes, I have received indications that there are cases that have run [the statute of limitations since April 7, 1988]."

I am deeply concerned over Ms. Shelton's revelation in light of the fact that the Age Discrimination Claims Assistance Act of 1988 (ADCCA), which was signed into law on April 7, 1988, only provides relief to those individuals whose charges exceeded the statute of limitations prior to April 7 and not after that date.

Should you have any questions regarding this request, please have your staff contact Max Richtman, Staff Director for the Committee, at 224-5364.

Thank you for your cooperation and assistance in this matter.

Sincerely,

John Melcher

Chairman

NATIONAL COUNCIL OF EEOC LOCALS NO. 216

American Federation of Government Employees (AFL-CIO)

"Progress through Education and Political Action"

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President
(New York District Office)
FTS 264-7164

RONALD CRENSHAW
1st Vice-President
(Denver District Office)
FTS 564-1306

ROSETTA PRITCHARD
2nd Vice-President
(Chicago District Office)
FTS 353-0819

LEVI MORROW
Treasurer
(Dallas District Office)
FTS 729-7083

FLORINE B. GOGGLOS
Secretary
(Jackson Area Office)
FTS 490-6618

CARSON OWEN
General Counsel
(Memphis District Office)
FTS 222-2617

National Headquarters
90 Church Street Room 1304D
New York, New York 10007
(212) 264-7164
Reply to above, unless otherwise noted.

October 18, 1988

The Honorable John Melcher
Chairman, Special Committee on Aging
United States Senate
The Dirksen Senate Office Building, Room SD-G33
Washington D.C. 20510

Dear Senator Melcher:

It was with great sadness and apprehension that the Council read the report of the General Accounting Office which concluded that quality investigations had not been conducted by the Equal Employment Opportunity Commission in 41 to 82 percent of all closed charges. Our sadness results from the broken and demoralized condition that the dedicated civil service investigators in the front lines charged with enforcing these important civil rights statutes now face. Our apprehension stems from the Council's grave concerns that the continued mismanagement from the top of our agency will continue the erosion of the quality of the products we produce and the morale of the employees we represent.

While We believe the GAO study uncovered a deplorable state of affairs at the Field Office level, what it has failed to establish is the causal nexus between these consequences and the gross mismanagement by the Chairman, his Chief of Staff, and the Director of the Office of Program Operations. The Chairman and his agents have established and imposed on field office managers unrealistic, unfair, and unattainable quantitative productivity, inventory reduction, aging inventory, and timeliness objectives which are wholly inconsistent with qualitatively adequate full investigations. The Office of Program Operations and its various Field Management Divisions have set inflexible numerical programmatic goals using rigid mechanistic unrealistic formulas which do not account for qualitative workload factors in establishing program goals for each of the field offices. Because of the inherent subjectivity of qualitative factors, and the ease of measuring, rewarding, and punishing managers and employees based upon these quantitative performance indicators, Office Directors, Managers, and Supervisors, have had no choice but to emphasize quantitative achievement to the detriment of quality. These simplistic approaches do not account for staff turnover, complexity of the cases, the extra time needed to develop litigation worthy cause cases, time

95-656 0132

needed to engage in conciliation efforts in cause cases, time needed to hold settlement discussions in certain cases, the actual amount of time needed to develop and train qualified field investigators, and a variety of other factors. He claims that there is no productivity requirement, and yet formulas setting inventory reduction and aging inventory goals are all based upon a processing assumption of 78 closures per investigator per year. Despite the Chairman's representations concerning recent improvements and reforms, these thinly disguised practices are currently continuing in the current fiscal year, and are forcing EEOC investigators and their supervisors and managers to cut corners and compromise quality in order to survive the current regime.

The Union believes that immediate Congressional action is now required in order to curb these detrimental high level management practices. While we believe that the de facto reduction in the fiscal year 1989 budget will further deteriorate the quality of the job this agency is capable of performing, Congressional intervention can mitigate the extent of the damage to civil rights enforcement in this nation. The Chairman has stated on numerous occasions that quality, quantity and timeliness are not mutually exclusive. However, the quantitative and timeliness goals that he and his top policy makers have implemented are tantamount to the Pharaoh demanding that "bricks be made without straw." We call upon the Congress to investigate and hold oversight hearings on this most important issue.

Sincerely Yours,

Edward A. Watkins
President

cc: The Honorable Matthew G. Martinez
Chairman House Subcommittee - on Employment Opportunities
The Honorable Alan Cranston
Assistant Majority Leader - U.S. Senate
The Honorable Lawton Chiles
Chairman Senate Subcommittee - Labor, Health & Human Services & Education, Committee on Appropriations
The Honorable Edward M. Kennedy
Chairman Senate Committee - on Labor and Human Resoures
The Honorable William D. Ford
Chairman House Subcommittee on Investigations
The Honorable Tom Lantos
Chairman House Subcommittee on Employment Opportunities
The Honorable Pat Williams
Chairman House Subcommittee on Postsecondary Education
Committee on Education & Labor
The Honorable Augustus Hawkins
Chairman House Committee on Education & Labor

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF
THE CHAIRMAN

OCT 28 1988

The Honorable John Melcher
Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On October 20, 1988, I received your letter dated October 17, asking for the number of any ADEA charges that may have exceeded the two-year statute of limitations between April 8 and September 30, 1988.

Currently, EEOC managers are gathering information on any such charges for reference in preparing employee performance evaluations. Unfortunately, we will not have this information by October 28 as you request. However, I will be glad to provide you with the information as soon as it is compiled and verified. We anticipate being able to provide it in mid-November.

Sincerely,

Clarence Thomas
Chairman

cc: The Honorable John Heinz

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United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

October 27, 1988

The Honorable Clarence Thomas
Chairman
Equal Employment Opportunity Commission
Washington, D.C. 20507

Dear Chairman Thomas:

I am in receipt of your letter of September 15 responding to my request for information as to the EEOC source of the advance informal advice to Xerox Corporation that EEOC would not proceed with age discrimination litigation against Xerox.

Although you indicate that you did not know of that "informal advice" to Xerox until you were questioned about it at the September 10, 1987 Committee hearing, it was reported by Xerox in its 1985 Annual Report, as well as subsequent SEC reports, including the March 31, 1986 Form 10-Q mentioned in your letter. The EEOC decision not to litigate was not made formally until March 16, 1987.

Your letter of September 15 goes on to allege that staff of this Committee provided ABC's 20/20 program with what you describe as "the confidential tape" of that Commission's meeting of March 16, 1987. I assume that by the term "your staff" you mean the majority staff of the Committee.

I have been fully and adequately assured that the ABC 20/20 program did not receive from any member of the majority staff of this Committee either the tape you provided or a copy of that tape.

As indicated by the Memorandum of the Office of Senate Legal Counsel, that tape carries no "confidential" status when provided to this Committee in connection with this Committee's oversight activities.

Your letter also alleges that staff of this Committee provided one unnamed "print media outlet" with "confidential information obtained by the Committee from EEOC" prior to the official publication of the material. Again, I must assume "your staff" means the majority staff.

Again, I am fully and adequately assured there is no basis to that allegation. The issue of confidentiality is covered above.

Sincerely,

John Melcher
Chairman

cc: Members, Senate Special
Committee on Aging

JOHN MELCHER, MONTANA, CHAIRMAN
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United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

October 24, 1988

The Honorable John Melcher
Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear John:

Now that Committee is completing its work in the 100th Congress, I am interested in learning of the progress of the Committee's various investigations into the Equal Employment Opportunity Commission (EEOC), and of your intentions for following up on the investigative work we have done.

As I understand it, we have been conducting three investigations into issues involving the EEOC. Our basic effort has been to determine the extent of and reasons for EEOC's failure to process charges brought under the Age Discrimination in Employment Act within the statutory time limit. In addition, the Committee has separately pursued allegations of retaliation by EEOC officials against Ms. Lynn Bruner, an employee who testified before the Committee in July. Finally, the Committee has been trying to determine how the EEOC made the decision in 1987 not to litigate age discrimination charges brought against the Xerox Corporation.

I am most interested in building on the work the Committee has done in these areas. For this reason, I would appreciate it if, before the end of the year, the investigative staff could provide me with a report on the specific conclusions reached in each of the investigations, including the evidence that supports these conclusions, and the recommendations for further action by the Committee or by individual Members to address the problems identified. I am particularly concerned that if we have clear evidence of serious problems at the EEOC or misfeasance by EEOC officials, that we develop a strategy for acting on this evidence and initiating legislative or other remedies to correct the problems.

Thank you for your help with this request. I look forward to working with you in the next Congress on correcting the serious problems at the EEOC that you have so effectively brought to light.

Sincerely,

JOHN HEINZ
Ranking Minority Member

JH/gla

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF
THE CHAIRMAN

OCT 24 1988

The Honorable John Melcher
Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On October 20, 1988, I received your letter dated October 17, asking for the number of any ADEA charges that may have exceeded the two-year statute of limitations between April 8 and September 30, 1988.

Currently, EEOC managers are gathering information on any such charges for reference in preparing employee performance evaluations. Unfortunately, we will not have this information by October 28 as you request. However, I will be glad to provide you with the information as soon as it is compiled and verified. We anticipate being able to provide it in mid-November.

Sincerely,

Clarence Thomas
Chairman

cc: The Honorable John Heinz

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United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

October 31, 1988

Ms. Deborah J. Graham
Director of Communications
and Legislative Affairs
Equal Employment Opportunity Commission
Washington, D.C. 20507

Dear Ms. Graham:

This is to acknowledge your telephone call of today which was directed to me in the absence of Mr. Max I. Richtman, the Committee Staff Director.

Based upon your assurance that as of this date, neither accurate nor reliable data is available, from either EEOC District Offices or EEOC Headquarters, as to the number of ADEA charges which expired under an ADEA statute of limitations in any of the EEOC District Offices between April 7, 1988 and September 30, 1988, I will inform the other members of Committee staff that there is no need to request data as to such expired charges from any District Offices pending receipt of Chairman Thomas' response to Chairman Melcher's recent letter requesting that data and pending also receipt of the EEOC report, due November 3, 1988, under the Age Discrimination Claims Assistance Act of 1988.

Sincerely,

Lloyd L. Duxbury
Committee Staff

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

November 2, 1988

The Honorable John Melcher
United States Senate
Washington, D.C. 20510

Dear Senator Melcher:

On behalf of the Equal Employment Opportunity Commission, I am submitting this report pursuant to Public Law 100-283, the Age Discrimination Claims Assistance Act of 1988, covering the period April 7, 1988 through October 3, 1988. We are providing the following information:

(1) The number of persons who have claims to which section 3 applies and the dates charges based on such claims were filed with the Commission.

Of the total number of notices provided pursuant to ADCAA, we have subtracted the number of notices mailed to people who filed untimely charges more than 300 days from the date of the alleged violation of the Age Discrimination in Employment Act. As a result, we estimate that 8,876 of the remaining notices were sent to people who may have claims. This amount includes 3,286 state or local fair employment practices agency charges which may or may not be covered by ADCAA. Please note that the number of potential claimants includes multiple notices sent to the same individual in those cases where an individual filed multiple charges.

Although we have conducted a review of 1,628 case files, we have not conducted a case-by-case review of every record in our files that contains a charge to which ADCAA may apply in order to more accurately assess whether a claim may exist. EEOC field offices are still reviewing files to assess whether there is need for further EEOC action and, if so, to take any additional steps necessary. However, most of the files closed before 1986 were destroyed in accordance with a records destruction schedule that was in effect at the time and has since been amended to provide for a longer period of records retention. (Offices have been instructed to retain all existing ADCAA files so that the evidence will be on hand if needed.) We are unable to review any of those case files that were destroyed to determine whether a claim may exist. However, we were able to issue notices based on computer data in those cases where the files were destroyed. Lists of all notices sent, including the date the charges were filed, are attached. Where the filing date is not provided, the information is unavailable.

(2) The number of persons to whom notice was provided in accordance with section 4(a) and the date the notice was provided.

EEOC and 43 state and local fair employment practices agencies sent out a total 10,476 notices pursuant to ADCAA. This number includes multiple notices sent to the same individual in those cases where an individual filed multiple charges and includes notices sent

to individuals who filed their charges after the two-year statute of limitations for non-willful violations under ADEA expired. Lists of the notices sent, including the date each notice was mailed, are attached.

(3) With respect to alleged unlawful practices on which claims affected by section 3 are based, the number of such alleged unlawful practices that the Commission has attempted to eliminate by informal methods of conciliation, conference, and persuasion in the 180-day period for which the report is submitted.

EEOC has successfully conciliated five cases covered by ADCAA in which it found cause to believe that discrimination had occurred. EEOC currently is engaged in conciliation in 16 cases covered by ADCAA in which it found cause. Seventeen cases covered by ADCAA were settled before EEOC made a determination on the case. Conciliation failed in seven cases covered by ADCAA in which EEOC found cause. EEOC has filed lawsuits in those seven cases. EEOC also is engaged in active conciliation concerning five charging parties who received ADCAA notices with an employer who requested to conciliate, before the complaint is filed, a case in which suit was authorized.

(4) The number of alleged unlawful practices referred to in paragraph (3) that were so eliminated in such period.

EEOC has successfully conciliated five cases covered by ADCAA in which it found cause to believe that discrimination had occurred. Seventeen cases covered by ADCAA were settled before EEOC made a determination.

(5) The number of civil actions filed by the Commission on behalf of persons to whom notice was sent under section 4.

Seven ADEA cases were filed in cases where charging parties were issued notice under ADCAA.

An additional 19 cases were based at least in part on ADCAA, although notices were not sent for one or more of the following reasons: the case was approved for litigation before the date notices were to be sent; ADCAA was alleged as a precautionary measure to avoid a dispute concerning whether the statute of limitations had been tolled; the charging party was not entitled to bring a private action because he had not filed a timely charge; the case had been filed before passage of ADCAA and the complaint was subsequently amended to allege ADCAA; and/or ADCAA was added to avoid a dispute concerning whether the violation was willful and thus covered by the three-year limitations period.

Sincerely,

Deborah J. Graham

Deborah J. Graham
Director of Communications
and Legislative Affairs

Attachments

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

November 4, 1988

MEMORANDUM

TO: Ron Kader
Senate Special Committee on Aging

FROM: Dave Kyllo
Office of Communications and Legislative Affairs

SUBJECT: Fiscal Year 1988 Statistics

Attached you will find a copy of the memorandum from James Troy, Director of the Office of Program Operations, to Debbie Graham containing EEOC's FY 1988 charge closure statistics.

At Jim Michie's request, Nancie McPhail of this office, provided an earlier tabulation of these statistics over the phone to Bob Harrison on October 26, 1988.

Attachment

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

NOV 3 1988

MEMORANDUM

TO : Deborah J. Graham, Director
Office of Communication and Legislative Affairs

FROM : James H. Troy, Director
Office of Program Operations

SUBJECT: Request by the Senate Committee on Aging

OPO staff has completed the preliminary review of the charge processing statistics through the fourth quarter of FY 1988. Based on the reconciled data, as of October 28, 1988, we have the following agencywide totals:

Total Closures	70,749
Cause Closures	1,938
No Cause Closures	35,148

These figures are final for FY 1988.

RECEIVED
NOV 3 1988
Office of Communications
& Legislative Affairs

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United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

November 9, 1988

The Honorable Clarence Thomas
Chairman
Equal Employment Opportunity Commission
Washington, D.C. 20507

Dear Chairman Thomas:

I am in receipt of the November 2, 1988 Report by Ms. Deborah J. Graham, on behalf of the Commission, described as the Report required by Section 5 of Public Law 100-283, The Age Discrimination Claims Assistance Act of 1988, for the first 180 day period after April.

Since the Report indicates that the Commission is not yet able to report "the number of persons who have claims to which section 3" of the 1988 law applies, I trust you will let this Committee know when that data will be available and that you will report that data to this Committee as soon as it becomes available so that the Committee will have the benefit of a report in compliance with section 5.

The filing date required by section 5(a)(1) of that 1988 law is missing for hundreds of the charges listed in that Report. The Report merely states: "Where the filing date is not provided, the information is unavailable." The District Offices involved in most of those missing filing dates appear to be Buffalo (New York), Charlotte, Fresno (San Francisco), Los Angeles, Milwaukee, and Tampa (Miami). The Report gives no reason for the unavailability of the filing dates in the District and Area Offices where they are unavailable. The same is true of the State and Local Offices where the filing date is not provided.

I trust you will provide the Committee with the reasons the filing dates are not available in the respective offices, whether and, if so, when, those missing filing dates will be supplied.

The Report as to section 5(a)(1) states, in part, that "most of the files closed before 1986 were destroyed in accordance with a records destruction schedule that was in effect at the time" and indicates that destruction schedule has since been changed. I trust you will inform the Committee of

the records destruction schedule pursuant to which files closed before 1986 were destroyed, the dates that schedule was in effect, the new schedule to which that Report refers, and the date that new schedule became effective.

After the Commission mailed the notices required by section 4 of the 1988 Claims Assistance Act, data was provided to this Committee that, as of June 17, 1988, 7,546 notices had been mailed pursuant to section 4 and that number did not include the notices mailed for charges involved in the 706 agencies. You were to report the latter number later.

Your November 2 Report puts the total number of notices mailed at 10,476. That would indicate that the 706 agency mailings totalled 2,930.

But your November 2 Report states that your "estimate" of 8,876 possible claimants to whom the 1988 law applies includes "3,286 state or local fair employment practices agency charges, "after eliminating charges filed untimely more than 300 days from the date of the alleged violation. Your Report would indicate that the number so eliminated totalled 1,600.

I trust you will address the apparent irreconcilability in these figures so that the Committee can have the benefit of reconcilable totals.

I will appreciate your response at your early convenience.

Sincerely,

John Melcher

Chairman

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

November 18, 1988

The Honorable John Melcher
Chairman
Special Committee on Aging
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

On behalf of Chairman Clarence Thomas, I am responding to your letter of October 17, in which you request information on Age Discrimination in Employment Act charges that exceeded the two-year statute of limitations between April 8 and September 30, 1988.

James Troy, director of the Equal Employment Opportunity Commission's Office of Program Operations, presented his findings to Chairman Thomas yesterday. In addition to cases that exceeded the statute of limitations for reasons that either were or were not within the control of EEOC field offices, Mr. Troy's report includes cases that were open two years after the date of the violation but did not result in a loss of rights or remedy for the charging party (the statute of limitations was tolled during conciliation, the statute of limitations was suspended by agreement of the parties, the charge was litigated, settlement was obtained after the two-year period).

In your letter, you expressed concern that ADCAA only provides relief to those individuals whose charges exceeded the statute of limitations before April 7. Mr. Troy reports that EEOC district directors have advised the headquarters Office of Program Operations that the charging parties in each case that exceeded the two-year statute of limitations after ADCAA was enacted were provided written notification of their rights and options under the ADEA. A copy of Mr. Troy's report is attached.

Sincerely,

Deborah J. Graham

Deborah J. Graham
Director of Communications
and Legislative Affairs

Attachment

cc: The Honorable John Heinz

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MEMORANDUM

NOV 17 1988

TO: Clarence Thomas
Chairman

FROM: Jim Troy
Program Director

SUBJECT: POST ADCAA ADEA ENFORCEMENT

OPO has completed its retrieval, review, and reconciliation of information from the District Offices regarding the number of ADEA charges that exceeded the two year statute of limitations since April 7, 1988. We have attached the chart which reflects the total number of charges that exceeded the statute (436), number for acceptable reasons (241), number for unacceptable reasons (195), number that have been resolved (267), and number still open (169). The reasons deemed acceptable and unacceptable are consistent with the report previously submitted to the Committee regarding pre-ADCAA charges.

It is noted that of the 195 charges with reasons unacceptable to OPO, 119 are in offices which did not have stable managerial leadership for much of FY'88. The following list represents those situations:

a. Baltimore (32) - The District Director, Dorothy Mead retired on June 3 with serious problems existing in the District, most notably in the Washington Area Office, where most of these charges are being resolved.

b. Birmingham (17)- The District Director, Frank Jordan, retired in April, 1988 after receiving notification of his demotion for performance difficulties.

c. Detroit (36) - This District was without permanent management for almost two years. The current Director, Spencer Lewis, was appointed just prior to enactment of ADCAA. The chart reflects that most of the charges that exceeded the statute have been resolved since he assumed office.

d. Dallas (31) - The District Director, Larry Ramirez, retired in June, 1988, after receiving notification that his employment would be terminated because unacceptable conduct as a manager.

RECEIVED
NOV 17 1988
Office of Communications
& Legislative Affairs

e. Seattle (3) - This District was without permanent management from June 1987 until August 1988.

In the other offices, extenuating workload circumstances contributed to our inability to resolve the charges prior to the 2 year statute. All offices were well aware of the priority status the Agency placed on movement of the ADEA workload. Therefore, in keeping with the lines of managerial accountability, each District Director that allowed one or more charges to exceed the statute, but could have avoided it, received performance ratings at a level lower than they would have otherwise earned.

We have contacted each of the District Directors in whose offices charges exceeded the statute. Our information is that in each instance, the District Director complied with our January 22, 1988 direction that:

a) written notification be provided to charging parties, upon acceptance of a charge within 90 days of expiration of the 2 year statute of limitations, of their rights and options under the statute; and

b) written notification be provided to charging parties of their rights and options under the statute, 60 days prior to the expiration of the statutory limitations period, in all charges pending processing in EEOC.

I am available to discuss this report with you at your convenience. We have also attached full reports from each District, which includes Area and Local office charges that exceeded the statute. Should the Committee desire further information or clarification, please let me know.

cc: Chairman Clarence Thomas
Godfrey Dudley, FMP East
Jackie Shelton, FMP West

TOTAL NUMBER OF AREA CHARGES EXCEEDING STATUTE OF LIMITATIONS SINCE APRIL 7, 1988

DISTRICT OFFICES FOR-EAST	TOTAL CHARGES LAPSED	ACCEPTABLE REASONS	UNACCEPTABLE REASONS	CLOSED	OPEN
ATLANTA	4	4	0	4	0
BALTIMORE	43	11	32	22	21
BIRMINGHAM	30	13	17	18	12
CHARLOTTE	3	3	0	2	1
CLEVELAND	4	4	0	3	1
DETROIT	47	11	36	38	9
MEMPHIS	3	3	0	3	0
MIAMI	26	2	24	24	2
NEW ORLEANS	1	1	0	1	0
NEW YORK	35	25	10	14	21
PHILADELPHIA	42	26	16	29	13
EAST TOTALS:	238	103	135	158	80
FOR-WEST					
CHICAGO	27	22	5	22	5
DALLAS	69	38	31	33	36
DENVER	10	9	1	5	5
HOUSTON	7	6	1	3	4
INDIANAPOLIS	6	3	3	3	3
LOS ANGELES	29	26	3	8	21
MILWAUKEE	11	9	2	6	5
PHOENIX	5	2	3	2	3
SAN ANTONIO	14	9	5	10	4
SAN FRANCISCO	4	4	0	3	1
SEATTLE	10	7	3	9	1
ST LOUIS	6	3	3	5	1
WEST TOTALS:	198	138	60	109	89
EEOC-WIDE TOTALS:	436	241	195	267	169

TOTAL % ACCEPTABLE: 55.28%
TOTAL % UNACCEPTABLE: 44.72%

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF
THE CHAIRMAN

OCT 24 1988

The Honorable John Melcher
Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On October 20, 1988, I received your letter dated October 17, asking for the number of any ADEA charges that may have exceeded the two-year statute of limitations between April 8 and September 30, 1988.

Currently, EEOC managers are gathering information on any such charges for reference in preparing employee performance evaluations. Unfortunately, we will not have this information by October 28 as you request. However, I will be glad to provide you with the information as soon as it is compiled and verified. We anticipate being able to provide it in mid-November.

Sincerely,

Clarence Thomas
Chairman

cc: The Honorable John Heinz

United States Senate
SPECIAL COMMITTEE ON AGING
WASHINGTON, DC 20510-6400

October 17, 1988

The Honorable Clarence Thomas
Chairman
Equal Employment Opportunity Commission
Washington, D.C. 20507

Dear Chairman Thomas:

As Chairman of the Special Committee on Aging, I am writing to request your assistance in obtaining certain information essential to the Committee's on-going investigation of the EEOC's enforcement of the Age Discrimination in Employment Act.

Specifically, I am requesting that you provide to the Committee, by the close of business on October 28, 1988, the numbers of ADEA charges that have exceeded the two-year statute of limitations in each of the EEOC's 48 district, area, and local offices from April 8, 1988 through September 30, 1988. My request for this information was prompted by testimony of one of your managers, Jacquelyn Shelton, in a Committee deposition on August 24, 1988. Responding to a question, Ms. Shelton stated: "Yes, I have received indications that there are cases that have run [the statute of limitations since April 7, 1988]."

I am deeply concerned over Ms. Shelton's revelation in light of the fact that the Age Discrimination Claims Assistance Act of 1988 (ADCCA), which was signed into law on April 7, 1988, only provides relief to those individuals whose charges exceeded the statute of limitations prior to April 7 and not after that date.

Should you have any questions regarding this request, please have your staff contact Max Richtman, Staff Director for the Committee, at 224-5364.

Thank you for your cooperation and assistance in this matter.

Sincerely,

John Melcher

Chairman

Recd 10/20/88
2:37 pm
OLA

Explanation of Reason Codes

Code

3 - Cause LOD issued before statute lapsed; charge lapsed during conciliation (statute is tolled for up to one year for conciliation)

5 - Statute (clock) suspended, charging party did not lose right to sue.

14 - Charging party filed charge after 18-24 months

15 - Charging party filed charge after two-year statute had already expired.

20 - Charge was litigated - Charging party or EEOC filed suit

26 - Charge lapsed but settlement for the charging party was obtained

27 - Charge lapsed due to subpoena enforcement

Note: The Reason codes listed show those charges that lapsed for reasons clearly beyond EEOC's control or that lapsed but resulted in no loss of remedy for the charging party. All charges showing no code lapsed for reasons such as heavy workload, staffing problems, case tracking problems, delays by uncooperative respondents, etc.

Office	Charges Lapsed 4/7/88 or Later	Reason Code	Closed	Open
Atlanta	310-86-2741	5	X	
	110-86-2116	27	X	
	110-88-2333	5	X	
Sub-Total	3	3	3	
Savannah Local Office	110-87-1331	20	X	
Sub-Total	1	1	1	
District Wide Total	4	4	4	

Office	Charges Lapsed 4/7/88 or Later	Reason Code	Closed	Open
Washington Area Office	123-86-0927		X	
	123-87-0529			X
	123-86-1217		X	
	123-87-0093		X	
	123-87-0617			X
	123-86-1305		X	
	123-87-0120		X	
	123-87-0365		X	
	123-86-0995		X	
	123-87-0718		X	
	123-86-1228			X
	123-87-0003			X
	123-86-1344			X
	123-86-1133			X
	123-86-1166			X
	120-87-0272			X
	123-86-1200			X
	123-87-0501			X
	123-87-0617			X
	123-87-0218			X
	123-87-1166			X
	123-87-0586			X
	123-87-0301			X
	123-86-1064		X	
	123-87-0041	20	X	
	123-87-0104	5		X
	123-87-0601			X
	123-86-0936	26	X	
Sub-Total	28	3	11	17
Richmond Area Office	122-87-0795		X	
	122-88-0515	14	X	
	122-88-0500	14	X	
	122-86-0827		X	
	122-87-0362		X	
Sub-Total	5	2	5	0
Norfolk Area Office	037-86-0746		X	
	037-86-0130	26	X	
	121-88-0238	15	X	
Sub-Total	3	2	3	
Baltimore District Office	122-87-0360			X
	120-87-0902	20	X	
	120-87-0513		X	
	120-87-0516	5		X
	033-86-2405	20	X	
	120-87-0441			X
	120-87-0797	3		X
Sub-Total	7	4	3	4
District Wide Total	43	~~42~~	22	21

Office	Charges Lapsed 4/7/88 or Later	Reason Code	Closed	Open
Birmingham District Office	130-87-0701	20	X	
	131-86-1916	26	X	
	042-86-2002		X	
	130-87-1305		X	
	042-87-0267		X	
	130-87-0813	26	X	
	042-87-0460	26	X	
	042-87-0293		X	
	042-87-0177	26	X	X
	130-86-2600	14	X	
	042-86-1307	3		
	042-86-1775			X
	042-87-0568	20	X	
	042-86-1756			X
	042-86-1673		X	
	042-87-0180			X
	131-86-1219			X
	042-86-1402			X
	130-87-2108			X
	042-87-0257	27		X
	042-87-0258	27		X
	042-86-1985		X	
	130-87-0623		X	
	130-28-0240		X	
	130-88-1103			X
	130-88-1805	3		X
	131-86-1840			X
Sub-Total	27	11	15	12
Jackson Area Office	131-86-1852	3	X	
	131-86-1853	3	X	
	131-88-1087		X	
Sub-Total	3	2	3	0
District Wide Total	30	15 13	18	12
Charlotte District Office	140-87-0545	5		X
	141-87-0234	26	X	
Sub-Total	2	2	1	1
Raleigh Area Office	141-88-1097	14	X	
Sub-Total	1	1	1	0
Greenville Local Office				
Sub-Total	0	0	0	0
Greensboro Local Office				
Sub-Total	0	0	0	0
District Wide Total	3	3	2	1

Office	Charges Lapsed 4/7/88 or Later	Reason Code	Closed	Open
Cleveland District Office	220-88-1178	5&14		X
	220-87-0755	20	X	
	220-87-0498	20	X	
Sub-Total	3	3	2	1
Cincinnati Area Office	221-87-0204	20	X	
Sub-Total	1	1	1	
District Wide Total	4	4	3	1
Memphis District Office	0			
Sub-Total	0			
Little Rock Area Office	0			
Sub-Total	0			
Nashville Area Office	253-87-0333	3	X	
	015-86-0978	3	X	
	253-87-0382	3	X	
Sub-Total	3	3	3	
District Wide Total	3	3	3	

Office	Charges Lapsed 4/7/88 or Later	Reason Code	Closed	Open
Detroit District Office	071-86-2191		X	
	281-86-2117		X	
	230-86-4496		X	
	281-86-2113		X	
	281-86-2077		X	
	281-86-2126		X	
	230-87-0552		X	
	230-87-1614			X
	281-86-2235		X	
	230-86-4830			X
	281-86-2148		X	
	230-87-0533		X	
	230-86-4132		X	
	071-86-1839		X	
	071-86-1840		X	
	281-86-2125		X	
	281-86-2293		X	
	281-86-2088		X	
	23A-87-2125		X	
	281-86-2143			X
	230-86-4905		X	
	230-87-0285		X	
	071-86-1812		X	
	281-86-2082			X
	281-86-2204		X	
	071-86-1851		X	
	281-86-2154		X	
	230-86-3257			X
	230-86-3613		X	
	071-86-1763		X	
	281-86-2330			X
	071-86-1661			X
	071-86-1564		X	
	230-86-3636	3	X	
	230-87-2314	26	X	
	230-88-0564	14		X
	281-86-2302		X	
	230-88-0778	14	X	
	230-88-0428	14	X	
	230-87-2155	20	X	
	281-86-2240	20	X	
	230-87-1223	14	X	
	230-87-1941		X	
	230-88-0439	14		X
	071-86-0942		X	
	071-86-1711	20	X	
	230-87-2224	20	X	
Sub-Total	47	11	39	9
District Wide-Total	47	11	39	9
Miami District Office	150-86-1636		X	
	150-86-1675		X	
	150-87-0065		X	
	150-87-0195	3		X
Sub-Total	4	1	3	1

Office	Charges Lapsed 4/7/88 or Later	Reason Code	Closed	Open
Tampa Area Office	151-86-1300		X	
	151-86-1476		X	
	151-87-0338		X	
	151-86-1256		X	
	151-86-1196		X	
	151-86-1357		X	
	151-86-0768		X	
	151-86-0896		X	
	151-86-0906		X	
	151-86-0925		X	
	151-86-0967		X	
	151-86-1067		X	
	151-86-1871		X	
	151-87-0086		X	
	151-87-0467		X	
	151-87-0072		X	
	151-87-0097		X	
	151-87-0254		X	
	151-86-1471		X	
	151-87-0639		X	
	151-86-0636		X	
	151-86-1516	3		X
Sub-Total	22	1	21	1
District Wide Total	26	2	24	2
New Orleans District Office	281-87-0029	3	X	
Sub-Total	1	1	1	
District Wide-Total	1	1	1	
Philadelphia District Office	170-87-2316		X	
	170-87-0834		X	
	170-87-0726	14		X
	170-87-3244	14		X
	170-87-1516		X	
	171-87-0126	14		X
	170-86-4889	14		X
	171-86-0780	14		X
	171-87-0081	14		X
	170-86-4183	14		X
	171-86-0555	14		X
	170-87-2450	14		X
	171-87-0056	14		X
	170-87-0104	14	X	
	170-87-0706	14	X	
	170-87-0053	14		X
	170-87-3611		X	
	170-88-2868	14		X
	170-86-4737		X	
	170-87-3866	14		X
	170-87-2531		X	
	150-87-0501		X	
	170-87-0795		X	
	170-87-1455		X	
Sub-Total	24	15	11	13
Newark Area Office	171-87-0245	14	X	
	171-86-0555	14	X	
	171-86-0794	3	X	
	171-86-0479	14	X	
	022-86-0416	14	X	
Sub-Total	5	5	5	

Office	Charges Lapsed 4/7/88 or Later	Reason Code	Closed	Open
Pittsburgh Area Office	220-88-1050		X	
	172-88-1029		X	
	172-88-1030		X	
	172-86-2064		X	
	172-87-1612		X	
	172-86-1823		X	
	172-87-0053		X	
	172-87-0101	3	X	
	034-86-1200	3	X	
	17J-86-0156	3	X	
	172-86-2076	3	X	
	172-87-0765	3	X	
	172-86-2062	3	X	
Sub-Total	13	6	13	0
District Wide Total	42	26	29	13
New York District Office	160-86-5135	3	X	
	160-86-5156	3	X	
	160-86-5207	3	X	
	160-86-5220	3	X	
	16H-87-0007			X
	160-88-0878	14	X	
	160-88-0948	14	X	
	160-88-1849	14		X
	160-88-2299	15		X
	160-87-1283	3	X	
	160-86-5112	3	X	
Sub-Total	11	10	8	3
Boston Area Office	161-87-0935	20	X	
	16C-87-0234			X
	16C-87-0267			X
	161-87-1239			X
	161-88-0422	14		X
	16A-87-0085			X
	161-87-1200		X	
	161-86-3026	3		X
	161-86-3027	3		X
	161-87-0773	3		X
	161-87-0774	3		X
	161-87-0775	3		X
	16A-87-0067			X
Sub-Total	13	7	2	11
Buffalo Local Office	165-87-0022	3		X
	165-87-0096	20	X	
	165-87-0097	20	X	
	165-87-0035	27		X
	165-87-0056	5		X
	165-87-0057	5		X
	165-87-0037	20	X	
	165-87-0071			X
	165-87-0113			X
	165-87-0105			X
	165-86-0400	3	X	
Sub-Total	11	8	4	7
District Wide Total	35	25	14	21

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

NOV 8 1988

MEMORANDUM

TO : James H. Troy, Director
Office of Program Operations

FROM : Jacquelyn J. Shelton, Director
Field Management Programs - West

SUBJECT : FMP-W Report on ADEA Charges that Exceeded the Statute of Limitations

Attached is the report on charges that have exceed the statute of limitations on or after April 7, 1988, pursuant to the request of the Senate's Special Committee on Aging. As you will note, the report lists charges by each District, Area, and Local Office and includes codes that explain the reasons for the charges lapsing. A legend which defines the codes is also attached.

In the Committee's letter, there is some confusion about the appropriate reporting period for this report. In the second paragraph the letter asks for charges "from April 8, 1988," and in the third paragraph the letter refers to "prior to April 7" as the period of coverage of ADCCA. Therefore, we have relied upon the Office of Legal Counsel's interpretation which is that charges exceeding the statute on April 7, 1988, or later are not covered by ADCCA. Accordingly, this report lists all charges that lapsed on April 7, 1988, or later.

Office	Charges Lapsed 4/7/88 or Later	Reason Code	Closed	Open
Chicago	210870185	-	X	
	210864780	3	X	
	210864879	3	X	
	210864891	3	X	
	210864884	3	X	
	210863922	3	X	
	051863397	3	X	
	210863919	3	X	
	210863920	3	X	
	210863921	3	X	
	210864845	3	X	
	150880957	14	X	
	260863471		X	
	210881270	15		X
	210881271	15		X
	210881199	15		X
	210881200	15		X
	210880004			X
	210864877	3	X	
	210864878	3	X	
	210864882	3	X	
	210864883	3	X	
	210864886	3	X	
	210864887	3	X	
	210863405		X	
	210871930		X	
	210864888	3	X	
District-wide Total	27	22	22	5

Office	Charges Lapsed 4/7/88 or Later	Reason Code	Closed	Open
Dallas				
	310862568		X	
	310863610	20	X	
	310870384		X	
	310862719		X	
	310870290		X	
	310870218		X	
	310871359	20	X	
	310663599		X	
	311870037			X
	310870116	26	X	
	310871571	3	X	
	310862538		X	
	310863457	3	X	
	310870748	20		X
	310863969	3		X
	310883119	3		X
	310883120	3		X
	310883121	3		X
	310883122	3		X
	310883131	15		X
	310883132	15		X
	310883133	15		X
	310883134	15		X
	310882759	14		X
	310882760	14		X
	310882761	14		X
	310882762	14		X
	310882437	14		X
	310863400	3	X	
	310863683	26	X	
	310873188	27		X
	310870657	20	X	
	310871639	3		X
	310870018	3		X
	310870126	3		X
	310870380	3		X
	310882404	3		X
	310882405	3		X
	310863075		X	
	311861318		X	
	311861367	20	X	
	083861085			X
	310871360	3		X
	310862325	3		X
	083860926			X
Sub-Total	45	33	18	27

Office	Charges Lapsed 4/7/88 or Later	Reason Code	Closed	Open
Oklahoma City Area Office	311870290		X	
	311870349		X	
	311861408	26	X	
	311861154		X	
	311861497	26	X	
	311861799		X	
	311861343	20	X	
	083861103		X	
	311870596	20	X	
	311870780			X
	311861795		X	
	311870217		X	
	311870286	26	X	
	311870818			X
	311861128		X	
	311870168			X
	311861573			X
	311861725		X	
	311861391			X
	311861613			X
	083861012		X	
	083861085			X
	083861099			X
	311870507			X

Office	Charges Lapsed 4/7/88 or Later	Reason Code	Closed	Open
Sub-Total	24	5	15	9
District wide	69	38	33	36
Denver	320861781	14		X
	320870516	3	X	
	320872237		X	
	320871514	27		X
	320870082	3	X	
	320870531	26	X	
	320871125	3	X	
	320880588	14		X
	320880379	14		X
	320880421	14		X
District-wide Total	10	9	5	5
Houston	330871348	27	X	
	064863058		X	
	241880774	20	X	
	330872167	27		X
	064862515	27		X
	330870234	27		X
	330870931	27		X
District-wide Total	7	6	3	4
Indianapolis	241870595		X	
	053862721		X	
	053862651	26	X	
Sub-Total	3	1	3	0
Louisville Area Office	241880774	14		X
	016860814			X
	241881148	15		X
Sub-Total	3	2	0	3
District-wide Total	6	3	3	3
Los Angeles	340870050	3		X
	092862562	26	X	
	092871963		X	
	340870169	20	X	
	092869039		X	
	340871733	3		X
	092869065	26	X	
	092869205	3		X
	340870108	20	X	
	340881956	15		X
	092872768	3		X
	092862952	26	X	
	092862883	3		X
	092862926	3		X
	092862885	3		X
	340871309	3		X
	092862927	3		X
	340870721	5		X
	092862565	3		X
	340871191	27		X
	340870155	3		X
	340870156	3		X
	092862045	3		X
	092869088	3		X
	092869087	3		X
	092869128	3		X
	092861835	27		X
Sub-Total	27	25	7	20

Office	Charges Lapsed 4/7/88 or Later	Reason Code	Closed	Open
San Diego	345880612	15		X
Local Office	340870633		X	
Sub-Total	2	1	1	1
District-wide Total	29	26	8	21
Milwaukee	260873075	27		X
	265870236	3		X
	260870218	3	X	
	210870567	3	X	
	265870102	3	X	
	260870408	27	X	
Sub-Total	6	6	4	2
Minneapolis	265880438	14		X
Area Office	076860742	27	X	
	265880362			X
	265880363			X
	076860577	3	X	
Sub-Total	5	3	2	3
District-wide Total	11	9	6	5

Office	Charges Lapsed 4/7/88 or Later	Reason Code	Closed	Open
Phoenix	350872426			X
	063861173	3	X	
	093861740		X	
	093861717			X
Sub-Total	4	1	2	2
Albuquerque	063860481	3		X
Sub-Total	1	1	0	1
District wide Total	5	2	2	3
San Antonio	360870527	20	X	
	360880905	14	X	
	360870836	20		X
	082860847	3	X	
	36A870031	3		X
	36B880185	14		X
Sub-Total	6	6	3	3
El Paso	315870656		X	
Area Office	082860591		X	
	082860592		X	
	315880516	20		X
	082860590		X	
	315870214	3	X	
	082860515		X	
	315870232		X	
Sub-Total	8			
District-wide Total	14	9	10	4

Office	Charges Lapsed 4/7/88 or Later	Reason Code	Closed	Open
San Francisco	340870073	26	X	
	370881065	15		X
	370870394	3	X	
Sub-Total	3	3	2	1
Fresno Local Office	375880071	20	X	
Sub-Total	1	1	1	0
Honolulu Local Office	0	0	0	0
Oakland Local Office	0	0	0	0
San Jose Local Office	0	0	0	0
District-wide Total	4	4	3	1
St. Louis	280870557	3		X
	280880840	15	X	
Sub-Total	2	2	1	1
Kansas City Area Office	281862546		X	
	281880521	14	X	
	281870192		X	
	281862531		X	
	4	1	4	0
District-wide Total	6	3	5	1
Seattle	380870752	26	X	
	092862964	26	X	
	380881205	14		X
	380871449	26	X	
	092861951		X	
	092862919		X	
	380870809		X	
	380862430	26	X	
	380862955	26	X	
	380871780	20	X	
District-wide Total	10	7	9	1

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507
December 22, 1988

The Honorable John Melcher
Chairman
Senate Special Committee on Aging
Washington, D. C. 20510

Dear Mr. Chairman:

This is in response to your letter dated November 9, 1988 concerning EEOC's first report to Congress as required by the Age Discrimination Claims Assistance Act.

Concerning the number of persons who have claims under ADCAA, our first report to Congress contained the names of those we had identified as having claims under ADCAA based on the information contained in our historical data base. Due to incomplete data in the computer files, we also included names of those who might not have claims under the law. Since ADCAA is a statute granting certain claimants rights to file civil action suits in federal courts, it rests with the courts to ultimately decide the appropriateness of such filings. Nevertheless, we are instructing our field offices to review those charges where records still exist and determine which were covered by ADCAA.

Where filing dates were not reported as requested, we are requesting that our field offices and FEP agencies search their available records for this information. Where the office can obtain this information, we will submit it as part of our next report under ADCAA.

In response to your question about the destruction of EEOC charge records, we are attaching a copy of EEOC Order 201 which contains EEOC's old record destruction schedule (Attachment A) and a memo dated October 27, 1987 with amendments to the old schedule (Attachment B). In addition, on April 28, 1988 we advised all field office directors in writing not to destroy any age case file that may be affected by ADCAA until further notice.

There is no irreconcilability of the figures provided in our previous reports. The attached tally (Attachment C) provides the correct figures. The figures are consistent with previously reported figures and include the final count for the field offices and FEP agencies. The bullets on the right side of the tally sheet provide explanations for each set of numbers.

Thank you for your interest in the work of the commission.

Sincerely,

Deborah J. Graham

Deborah J. Graham
Director of Communications
and Legislative Affairs

Attachments

Attachment A

DIRECTIVES TRANSMITTAL

NUMBER 439
DATE 10/28/81

SUBJECT. EEOC ORDER 201, EEOC RECORDS DISPOSITION PROGRAM

Purpose. This transmittal covers page and "pen and ink" changes to Appendix A, Chapter VIII, Parts A and B, EEOC Order 201. The following major additions have been made:

1. The schedules have been expanded to include the appropriate disposition for records created by EEOC under the Equal Pay and Age Discrimination in Employment Acts; and,

2. Item 16, "Appeals Records" has been added to the schedules to provide proper disposition authority for all appeals records created by EEOC.

Effective Date. Upon receipt.

Distribution. V Plus all Files Custodians.

Obsolete Data.

	Remove and Destroy Pages	Replace with Attached Pages
Appendix A, Chapter VIII, Part A	iii and iv	iii and iv
	v and vi	v and vi
	A-5 and A-6	A-5 and A-6
	A-7 and A-8	A-7 and A-8
	A-15 and A-16	A-15 and A-16
	A-19 and A-20	A-19 and A-20
	A-21 and A-22	A-21 and A-22
	A-31 and A-32	A-31 and A-32
	A-33 and A-34	A-33 and A-34
	A-35 and A-36	A-35 and A-36
	A-37 and A-38	A-37 and A-38
	A-41 and A-42	A-41 and A-42
	A-43 and A-44	A-43 and A-44
	A-45 and A-46	A-45 and A-46
	A-47 and A-48	A-47 and A-48
	A-49 and A-50	A-49 and A-50
		A-51 and A-52

Pen and Ink Changes. In Appendix A, Chapter VIII, Part A, make the following changes.

1. Page VIII-1, paragraph 3. 2.d., change the numeric "15" to "16". This sentence will then read: Items 12 through 16 are the program records."

2. Page vii, line 24, insert "(b)" between (5) and 1 of the item. The item will then read: "14. A and 14. C.(5)(b)1."

3. Page viii, insert the numeric "16." after line 5. This item will then read "Office of Review and Appeals, 14. B.
13. B.
14. C.
16. "

In Appendix A, Chapter VIII, Part B, make the following change.

1. In General Records Schedules 6, Item 1. the authorized disposition in 1.a.(1) should be deleted entirely. In 1.a.(2) the first three lines should be deleted. The authorized disposition for all site audit files is now to "Destroy 6 years and 3 months after the period covered by the account.

The authority for this change is GSA Bulletin FPMR B-111 dated July 7, 1981.

Robert F. Amoruso, Director
Office of Administration

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D. C. 20506

EEOC ORDER NO. 201
June 17, 1980

Management Programs
Records Management (General)

1. SUBJECT. THE EEOC RECORDS DISPOSITION PROGRAM

2. PURPOSE. This Order establishes the EEOC records disposition program and prescribes the EEOC Records Disposition Handbook for the administration of the program. This Order applies to all material filed in all EEOC offices, both headquarters and field.

Federal agencies are required by the Federal Records Act of 1950 and the Records Disposal Act of 1943 to establish and maintain a records disposition program. Records disposition programs have three basic elements: the retirement of noncurrent records to economical storage, the prompt disposal of records not warranting further preservation, and the designation of permanent records having sufficient historical and archival value to warrant immediate or later transfer to the National Archives and Records Service for permanent preservation.

The immediate objectives of the EEOC records disposition program are to:

a. control current records holdings by disposing of or transferring to low cost storage as many records each year as are created; or to reduce the total holdings by disposing of more records than are created; and

b. transfer to the GSA Federal Records Centers all noncurrent records that meet the criteria for transfer as outlined in the GSA Records Management Handbook, "Federal Records Centers," and the conditions set forth in FPMR 101-11.410.2.

3. ORIGINATOR. Administrative Services and Records Management Division, Office of Administration (ED-AA).

4. REFERENCES.

a. EEOC Order 203, Disposition of Personal Papers.

b. EEOC Order 230, Commissionwide EEOC File System.

c. EEOC Order 231, EEOC Annual Summary of Records Holdings RCS: EEOC(A)ED-AO-1.

5. RESPONSIBILITIES.

a. Office Directors (Headquarters and Field) and Headquarters Division Directors have the responsibility for the proper maintenance and disposition of the official records of their offices.

b. Director, Office of Administration is responsible for:

(1) Developing Commission-wide policies and procedures for the records retention and disposition program;

(2) Administering and auditing the overall operations of the program;

(3) Acting as liaison with the National Archives and Records Service for program direction; and

(4) Providing training of Commission personnel on records disposition.

c. All Employees who create, use or maintain records are responsible for complying with the provisions of this Order.

6. EEOC RECORDS DISPOSITION PROGRAM PROCEDURES.

a. All personnel involved in an office records disposition program must understand the terms used, particularly the difference between record and nonrecord material. Refer to Chapter II, Appendix A, EEOC Records Disposition Handbook for these and other important definitions.

95-656 O - 89 - 16

b. The office director and the individual who has been assigned to maintain the office's files will review the EEOC and GSA General Records Schedules to determine the retention periods of their records. Where large groups of the same types of records are in one drawer or cabinet, the types of records inside will be marked on the drawer or cabinet along with the retention period and disposal date. The disposal date will also be marked under the individual file folder title. Those noncurrent records eligible for disposal at the time this procedure is initially performed, will be removed and disposed of immediately.

c. Offices holding records not covered by the EEOC or General Records Schedules will notify the EEOC Records Management Officer, ED-AA of their type and volume. The EEOC Records Management Officer will assist in developing or obtaining retention periods for these records.

d. On an annual basis, each office director will ensure that an inventory of the files is performed to determine the types and volume of records maintained in the office. Based on the inventory, the office director will prepare a files maintenance and disposition plan to identify all files series maintained in the office, the filing arrangement, the volume (in cubic feet) for each file series, and the disposition standard. A copy of the office's files maintenance and disposition plan will be forwarded to the EEOC Records Management Officer, Administrative Services and Records Management Division, Headquarters. Requests for additional filing equipment will be evaluated in light of the requesting office's records disposition program.

e. Offices having a small volume of records may submit a memo showing the type and volume held instead of a disposition plan. (A small volume will be 4 or less file drawers or the equivalent.)

f. In accordance with EEOC Order No. 231, each office director will prepare an annual report of the volume of records held, retired and/or disposed of and the number and type of filing equipment in his/her office.

7. SUPPLY OF FORMS. The prescribed forms are available through normal supply channels.

8. OBSOLETE DATA. Remove from the directives binder and destroy EEOC Order 201, The EEOC Records Disposition Program, dated November 15, 1976, and all subsequent changes.

DISTRIBUTION: V plus All Files Custodians

Appendix A
EEOC Order 201
June 17, 1980

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

EEOC RECORDS DISPOSITION HANDBOOK

Procedures Governing the Retention Retirement, and Destruction of EEOC Records

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CHAPTER I - GENERAL

A. INTRODUCTION.

1. Managing the disposition of Federal Records is an important responsibility for each Federal agency. Records are one of the basic administrative tools by which the work of the Government is accomplished. Every action, decision, and policy result in some kind of documentation in the form of records. However, records belong to the Government rather than to individuals. They are in no sense personal property. Records can be legally destroyed only through the procedures of the disposition program.

2. This Handbook provides a systematic and continuous program of records disposition with the following objectives:

   a. Preserve records of continuing value;

   b. Destroy promptly and systematically records of only temporary value when they have served their purpose; and

   c. Remove noncurrent records from the office and place them in less expensive storage. This improves the usefulness of current records and reduces the overall cost of keeping records.

3. The retention and disposition of Commission records are governed by the EEOC Comprehensive Records Control Schedules which are patterned after the General Records Schedules promulgated by the National Archives and Records Services. The requirements for the use of these schedules are explained in Chapter VIII of this Handbook.

B. SCOPE. The standards and procedures contained in this Handbook for the retention and disposition of records apply to Headquarters and Field Offices of the Equal Employment Opportunity Commission.

C. RESPONSIBILITIES.

1. Director, Administrative Services and Records Management Division, Office of Administration(ED-AA) is responsible for developing and coordinating the records disposition program; conducting training to Commission personnel on the disposition management program; and evaluating the disposition program in headquarters and field offices.

2. EEOC Records Management Officer, ED-AA has the responsibility to:

a. Keep this directive and the disposition schedules current.

b. Determine retention periods for nonrecord material and those records not covered by the EEOC or GSA Records Schedules.

c. Review and approve all requests for filing equipment.

d. Answer all questions relating to the records disposition program from EEOC personnel and from other Federal agencies and prepare all necessary reports.

e. Schedule assistance visits to headquarters and field offices having problems with their programs and prepare an audit program to ensure that all offices are maintaining a proper disposition program.

f. Assign Records Accession Numbers for all EEOC records being transferred to the Washington National Records Center.

g. Review for completeness S.F. 135, Records Transmittal and Receipt transferring field office records to a Regional Federal Records Center.

CHAPTER II - DEFINITIONS

The following definitions and explanations are provided for certain records management terms and for names of facilities used in this Handbook.

1. ACTIVE RECORDS (Current records) - Records that are necessary for conducting the current business of the office and maintained in office space and equipment. Records which are referred to frequently.

2. ADMINISTRATIVE RECORDS (Housekeeping records) - Records of an organization that relate to budget, fiscal, personnel, supply, and similar administrative operations normally common to most Federal agencies, as distinguished from program records that relate to the Commission's primary functions.

3. AUDIOVISUAL RECORDS - Program and information motion pictures, still pictures, sound recordings, video recordings, and related documentation.

4. CASE FILE - A folder or other file unit containing material relating to a specific action, event, person, place, project, or other subject. Sometimes referred to as a project file or a transaction file. Also a collection of such folders or other file units.

5. CLOSED FILE - A file series containing documents on which action has been completed and to which additional documents are not likely to be added.

6. COMPREHENSIVE RECORDS CONTROL SCHEDULE - A listing of the record series and general files of an organization setting forth their disposition in terms of retirement, disposal, or transfer after specified retention periods. The schedule includes all file material whether record or nonrecord and records designated for permanent preservation as well as those scheduled for disposal.

7. CUBIC FOOT OF RECORDS - A quantity of closely stacked records measuring one foot long, one foot wide, and one foot high; used as a yardstick to indicate volume of records on hand, transferred or destroyed. One file drawer of a letter size cabinet holds 1½ cubic feet while a legal size drawer holds 2 cubic feet.

8. DISPOSAL - The physical destruction of records by burning, macerating, or other appropriate means. Also include sale as waste paper or donation to non-Federal recipients.

9. DISPOSAL AUTHORITY - The legal authorization for the disposal of records obtained from the Archivist of the United States.

10. DISPOSITION - Either the disposal, retirement, transfer, or microfilming of records. It may include two or more of these actions such as retirement after 1 year and disposal after 6 years.

11. EVIDENTIAL VALUE - The usefulness of records as the primary evidence of EEOC's authority, functions, organization, operations, and basic decisions and procedures.

12. FEDERAL RECORDS CENTER - A records storage facility operated by the National Archives and Records Service, General Services Administration, for housing and servicing noncurrent records of the Federal Government.

13. FILE BREAK (Cut Off) - Termination of a file at regular periodic intervals to facilitate continuous disposal or transfer of the file series.

14. FILE ITEM - A single document or case file of a record series or general file. It may be a piece of correspondence, a report, a complete form, a map or drawing, or a bound volume; it may also be a case file such as a voucher with attached supporting papers, or a personal history folder with papers relating to an employee.

15. GENERAL CORRESPONDENCE FILES - A group of related records accumulated by most organizations as a result of their routine operations. Consists of an arrangement of correspondence, memoranda, and messages on a number of different subjects as distinguished from case files on specific transactions.

16. GENERAL FILE - A collection of papers or documents, not possessing the uniform characteristics found in a filing unit, usually arranged by subject and covering a variety of types of transactions. Some of the component segments of a general file may constitute filing units such as a folder of monthly activity reports or a classification consisting of travel vouchers. A typical general file is an office correspondence file arranged by the EEOC subject filing system.

17. GENERAL RECORDS SCHEDULE - A listing of records common to several or all Government agencies with retention periods for each developed by the General Services Administration and published in the Federal Property Management Regulations of the General Services Administration. USE OF THESE SCHEDULES IS MANDATORY WITHIN EEOC.

18. HISTORICAL VALUE - The usefulness of records for historical research concerning EEOC or for information about persons, places, events or things.

19. HOLDING AREA - Agency space assigned for the temporary storage of active or semiactive records and for records with relatively short retention periods. Also known as staging area.

20. INACTIVE RECORDS (Noncurrent records) - Those records upon which all action is complete and which are required so infrequently in the conduct of current business that they may be removed from an office and retired without imparing current operations; defined as those records that are referred to no more than once per month per file drawer.

21. MACHINE-READABLE RECORDS (Automatic Data Processing-ADP) - The following terms common to the operational aspects of computers are explained for the purpose of identifying record and nonrecord material.

    a. ADP Machine Readable Data. Data recorded in coded or miniaturized form which has been generated by and can be processed by ADP equipment. ADP machine readable data may be in the form of holes in punched cards or paper tape; also as magnetized particles on magnetic tapes, discs, drums, data cells, core memories, or in photodigital systems.

    b. Magnetic Tapes Common to the Operational Aspects of Computers.

        (1) Raw Data Input Tapes. Tapes containing data initially abstracted from source documents which are being entered into a computer-based system for the first time. Conversion is usually from some other medium such as punched cards or punched paper tape.

        (2) Working Tapes. Tapes containing output data from one run for input data into a subsequent run. They are a means of moving and manipulating data through a system from Raw Data Tapes to Interim or Final Master Tapes.

(3) Scratch Tapes. Tapes containing data from computer runs such as sorts and merges. They are considered as temporary tapes with a data life usually equal to one run.

(4) Interim Master Tapes. Tapes containing either detail or summary data of the cumulative transaction items under a program or an account, or the outstanding items or totals representing the current status of record. These tapes become input to subsequent runs producing updated interim master tapes or final master tapes.

(5) Final Master Tapes. Tapes containing either detailed or summary data of the cumulative transactions under a program or an account. Generally, because of continuous updating requirements, final master tapes are produced only in areas requiring final reports or final statistical information.

(6) Printing/Punching Tapes. Tapes containing data extracted from a system (without destroying the source tape) for the purpose of producing required punch-out or printouts.

(7) Program Tapes. Tapes containing sequenced instructions which are recognized by a computer and cause it to carry out the functions required to solve a problem or process data in a specified way.

(8) Test Tapes. Tapes containing data created and used solely for testing computer programs.

c. Source Deck. A deck or punched cards containing a computer program in compiler language (Fortran, Cobol, etc.).

d. Object Deck. A deck of punched cards containing a computer program in machine language. An object deck is converted from a source deck by a compiler.

e. Compiler. A computer program which converts a source deck to an object deck.

22. NONRECORD MATERIAL - Those classes of documentary materials which may be disposed of without congressional authority. The Records Disposal Act, in addition to defining "records," establishes certain classes of material as "nonrecord." The Act states:

> "Library and museum material made or acquired and preserved solely for reference of exhibition purposes, extra copies of document preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of the word "records" as used in this act."

a. The following types of nonrecord material, referred to in the above quotation from the Records Disposal Act, are normally produced by EEOC offices.

(1) materials preserved solely for purposes of reference or exhibitions in libraries or museums;

(2) stocks of publications and reproduced documents retain for supply purposes; and

(3) extra copies of documents retained solely for convenience of reference, such as "reading file" and "information" copies of correspondence; "tickler," "follow-up," or "suspense" copies of correspondence; duplicate copies of documents maintained in the same unit or organization; and extra copies of printed or reproduced materials of which official copies have been retained for record purposes.

b. The following categories of material fall outside of the scope of the definition of "records" and are, therefore, nonrecord material.

(1) Private materials, such as privately purchased books and other publications, and correspondence or other records pertaining to private personal matters that have been kept at an office for convenience; and

(2) materials as described below that are inappropriate for preservation because they have neither evidential nor informational values. Included are papers that although accumulated in the process of producing "records" may never have acquired a record character.

(a) preliminary or intermediate drafts of letters, memoranda, reports or other papers, and preliminary worksheets and informal notes that do not represent or serve to explain significant basic steps in the preparation of record copies of documents;

(b) letters of transmittal that do not add any significant information to that contained in the transmitted material;

(c) memoranda or other papers that do not serve as the basis of official actions, such as notices of holidays, or charitable and welfare fund appeals;

(d) shorthand notes, including stenographic notebooks and stenotype tapes, that have been transcribed;

(e) abstracts or briefs of correspondence and other records prepared for informational purposes or retained for convenience of reference;

(f) diagrams, charts, or other graphic materials prepared from source data for use in briefing or training activities;

(g) routine control records, consisting of papers, documents, cards, etc., used to facilitate or control work in progress, such as: project control cards, worksheets or work progressing sheets, routing slips, personal work papers, cards, and rough drafts; and

(h) statistical tabulating aids such as machine-punched cards.

23. OFFICE OF RECORD - The agency, office or oganization component which is responsible for maintaining the official file copy of a record. Under functional or decentralized file system used in EEOC, the office of record is usually the office which created the record or initiated the action on an incoming record.

24. OFFICIAL FILES - Each file containing record copies constitutes an "Official File." The official file includes original incoming communications and the initialed record copies of outgoing and interoffice correspondence that have been created; original or action copies of reports, executed forms, tapes, photographs, and other documentary materials.

25. OFFICIAL FILE STATIONS - Official file stations are specifically authorized and designated points in EEOC where records are maintained and serviced by specifically assigned personnel. This includes any recordkeeping media such as paper, photographs, microfilm, punched cards, magnetic tapes, and other records.

26. ON-SITE AUDIT RECORDS - Records held by EEOC at the direction of the General Accounting Office for audit by the GAO. These records normally consist of: statements of transactions (formerly accounts current); voucher-schedules; vouchers and supporting documents; certificates of deposits; contract files consisting of each contractual document including modifications, amendments, supplemental agreements, and charge orders; accomplished carbon copies of voucher schedules and supporting basic documents covering payments of carriers for transportation services.

27. PERMANENT RECORDS - That small proportion of EEOC's records that are so valuable or unique in documenting the history of this agency, or for other reasons, that should be preserved as part of the National Archives and Records Service of the United States; generally, those records that document primary missions, functions, responsibilities, and significant experiences of accomplishments, or that contain information of continuing value.

28. PROGRAM RECORDS - Records which relate to the mission of the Equal Employment Opportunity Commission.

29. RECORD SERIES (File Units) - A unit or document of identical or equivalent file items characterized by a consistent method of assembly and handling, a common arrangement of the component items, and uniform as to subject, type of data recorded, or kinds of transactions reflected. A record series may also include related elements physically separated from it such as finding aids or bulky material. Examples of record series made up of uniform file items are:

    a. An entire voucher file, arranged numerically by voucher number, and consisting of copies of paid vouchers together with attached supporting papers such as purchase orders, receiving reports, invoices, bills of lading and correspondence. Each individual voucher together with its supporting papers is a file item.

    b. A complete official personnel file, arranged alphabetically by name of employee, and consisting of separate personnel folders each containing records pertaining to an individual employee. Each separate folder with its contents is a file item.

    c. A purchase order file, arranged numerically by purchase order number or alphabetically by name of vendor, and consisting of copies of all the purchase orders issued or received by the organization. Each separate purchase order is a file item.

30. RECORDS - Those classes of documentary materials which may be disposed of only after congressional authority is obtained. The statutory definition of "records" is given in the Records Disposal Act, as amended (57 Stat. 380; 44 U.S.C. 366) as is as follows:

> "... the word 'records' includes all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any agency of the United States Government in pursuance of Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data contained therein."

The legal definition quoted above pertains to records created or received by Federal agencies. The basic elements of this definition, however, may be applied to records disposition activities by cost-type contractors and subcontractors.

    a. The material may be made or received by an agency either in pursuance of Federal law or in connection with the transaction of public business.

    b. The material may be preserved or appropriate for preservation either for evidentiary purposes or for the value of informational data it contains.

The evidence or information contained in records may pertain to the "organization, functions, policies, decisions, procedures, operations, or other activities." Some evidence or information concerning these matters is contained in practically all records. The immediate or future reference needs shall be considered in deciding the relative importance of these evidentiary values. Determination of those records which contain sufficient evidence or information to justify continued preservation is a principle part of records disposition activities.

31. RECORDS CONTROL SCHEDULES - The administrative media used by EEOC to obtain legal disposal authority for categories of EEOC records. When legally authorized by the Archivist of the United States, the Administrator of General Services Administration, and the General Accounting Office provisions of these schedules grant continuing authority to dispose of identifiable categories of EEOC records that have accumulated and that will accumulate in the future.

32. RECORDS HOLDINGS - All records and papers in filing cabinets, on desks, on shelves, in mechanized files, and in bookcases--including documents, sketches, engineering drawings, photographs, magnetic tapes, microfilm, computer punched cards, notebooks and ring binders containing records but excluding library and museum materials preserved for reference or exhibition purposes; general reference publications; stocks of supplies, publications, printed documents, forms and working material in employees' desks.

33. RECORDS RETRIEVAL - The process of arranging for the prompt return of specific records which are in retirement at the Federal Records Center.

34. RETENTION AND DISPOSAL STANDARD - A description of records common to components of EEOC and a retention period approved for such records in accordance with established procedures. The retention period may be temporary or permanent.

35. RETENTION PERIOD - The period of time during which a records series or general file must be kept before the records may be disposed of. The period is usually stated in terms of years or months, but is often expressed as contingent upon the occurence of an event. A retention period is to be distinguished from a retirement period.

36. RETIREMENT - The movement of valued noncurrent records to the protective storage of a Federal Records Center for the duration of their retention period. Such records are continually subject to retrieval.

37. TRANSITORY RECORDS - Records retained in an office file or a current files area for a short period (approximately three months) until their purpose has been accomplished and the records can be destroyed.

38. TRANSFER - Change of custodial responsibility for records by removal or assignment to: another EEOC office; a Federal Records Center; the National Archives; another Federal Agency; or other outside recipients.

CHAPTER III - DISPOSITION PROGRAM GUIDELINES

A. GENERAL. To facilitate the disposition of records all offices are required to establish files in accordance with the standards and procedures contained in EEOC Order 230, Commissionwide EEOC File System. The EEOC file system is designed to provide the basis for a single coordinated system for identifying, filing, and retrieving documents by subject and includes criteria for the systematic retirement or destruction of records no longer required in the conduct of daily operations.

B. DISPOSITION GUIDELINES. To ensure that offices are complying with the disposition standards prescribed in this Handbook, the following list provides some general rules on disposition practices.

1. Matching of EEOC records with authorized schedules. Some record series in EEOC offices may not match exactly with those listed in the EEOC comprehensive records control schedules. If that is the case, find the record series which closely fit the records maintained in your office and use that retention standard. If the records are not covered under the schedules, notify the EEOC Records Management Officer, ED-AA.

2. Deviation from established retention periods. Established retention periods may not be shortened or extended without the approval of the EEOC Records Management Officer(ED-AA) and the National Archives and Records Service.

3. Identifying and evaluating nonrecord material. The definition of nonrecord material given in Chapter II includes a list of examples which should be used as a guide in identifying nonrecord series. These items must be evaluated to determine appropriate retention periods, but generally short periods (less than 3 years) should be established for them since they are usually duplicated elsewhere in the organization and are retained for convenience of reference only. Nonrecord material should not be retired since it is seldom retained long enough to justify the expense. It should be destroyed as soon as it is no longer needed for handy reference or when the retention period expires, whichever is first.

4. File Break. Files should be terminated or cut off periodically to make their transfer and disposal in uniform chronological blocks as easy as possible. Records custodians in the office are encouraged to create file breaks or cutoffs at regular periods as prescribed in Chapter II, Appendix A of EEOC Order 230.

5. Responsibility for disposals. The actual physical responsibility for disposal of records lies with the office maintaining the records.

6. Screening. Files eligible for retirement should be reviewed prior to transfer to a Federal Record Center(FRC) to eliminate duplicate and nonrecord material.

7. Short retention periods. Files should not be retired if the retention period expires within one (1) year of the contemplated retirement.

8. Minimum volume. Small quantities of records (less than one cubic foot) should not be retired as a sole transfer action by an office. They should be retained until a sufficient volume is available or until the retention period expires, whichever is first.

9. Timing of transfers. Records to be retired should be transferred at annual intervals when the file inventory is performed except when:

   a. the large volume of the file warrants more frequent transfers; and/or

   b. the cut off periods cover more than one year's accumulation of records.

10. Description of records. Records to be transferred should be identified and described on SF 135, Records Transmittal and Receipt, in sufficient detail to facilitate prompt reference service after retirement. (See Chapter V on the procedures for tranferring records to the FRC.)

11. Records holding and storage areas. EEOC offices will not maintain their own holding or storage areas outside of normal file areas.

CHAPTER IV - RECOMMENDING CHANGES TO EEOC RECORDS CONTROL SCHEDULES

A. RECOMMENDING RECORDS CONTROL SCHEDULE (RCS) CHANGES. Offices which generate and maintain EEOC records will submit recommended changes and additions to EEOC RCS when schedule instructions do not cover a particular type of record; existing instructions need change; or certain instructions should be deleted. Recommendations are to be submitted on SF 115, Request for Authority to Dispose of Records, SF 115A, Continuation Sheet, if needed, and forwarded to the EEOC Records Management Officer, ED-AA. Justification for the addition or change must be submitted along with the SF 115.

The EEOC Records Management Officer will coordinate proposed changes with other offices maintaining similar records.

B. PREPARATION OF SF 115. The numbers below correspond to the numbers on the form (see Exhibit 1).

1. Enter the agency name.

2. Enter the office name.

3. Enter the Hq. division or the appropriate field office(s).

4. Enter the name of the person responsible for the maintenance of the records.

5. Enter the telephone number of the person listed in block 4.

6. Leave blank.

7. Enter the number of the item on the RCS which is to be changed.

8. Enter a brief statement describing the records. Two lines below the description, enter the proposed retention period; for example, "destroy when 2 years old" or "transfer to the Federal Records Center when 2 years old and destroy when 5 years old."

9. Enter an "X" if a sample of the record is included with the request. Leave blank if no record is included.

10. Leave blank.

On SF 115-A (Exhibit 2) complete blocks 7, 8 and 9 above, and indicate the number of pages included with the request.

REQUEST FOR AUTHORITY
TO DISPOSE OF RECORDS

LEAVE BLANK

DATE RECEIVED | JOB NO.

NOTIFICATION TO AGENCY

TO: GENERAL SERVICES ADMINISTRATION

1. FROM (AGENCY OR ESTABLISHMENT)

2. MAJOR SUBDIVISION

3. MINOR SUBDIVISION

4. NAME OF PERSON WITH WHOM TO CONFER | 5. TEL. EXT.

6. CERTIFICATE OF AGENCY REPRESENTATIVE

Date | Signature of Agency Representative | Title

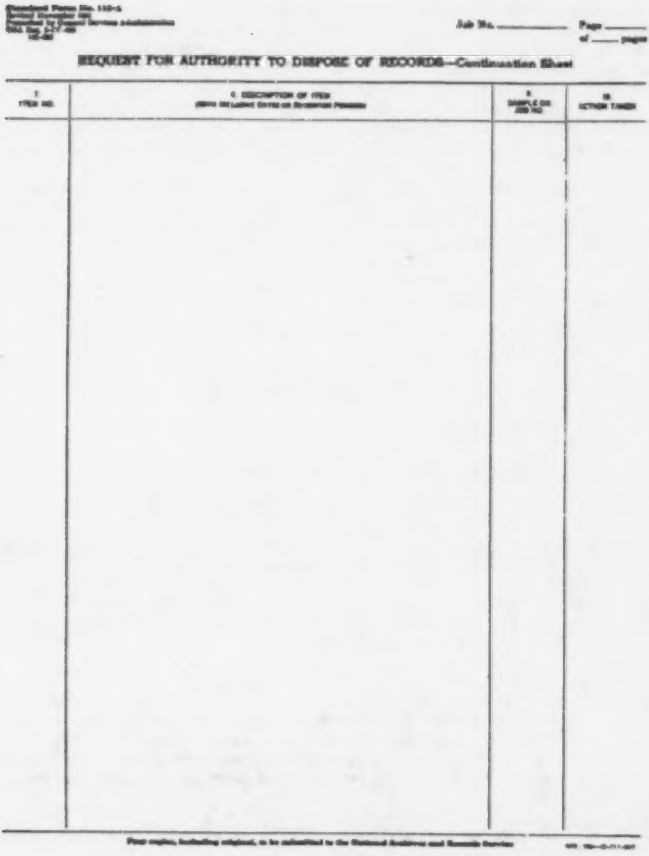
7. ITEM NO.	8. DESCRIPTION OF ITEM (With Inclusive Dates or Retention Periods)	9. SAMPLE OR JOB NO.	10. ACTION TAKEN

115-109

STANDARD FORM 115
Revised January 1972
Prescribed by General Services Administration
FPMR 101 CFR 101-11.4

Exhibit 1

IV-2



Job No. _____ Page _____ of _____ pages

REQUEST FOR AUTHORITY TO DISPOSE OF RECORDS—Continuation Sheet

1. ITEM NO.	2. DESCRIPTION OF ITEM (With Inclusive Dates or Retention Periods)	3. GAO LOG OR JOB NO.	4. ACTION TAKEN

Exhibit 2

CHAPTER V - TRANSFERRING RECORDS TO FEDERAL RECORDS CENTER

A. GENERAL. The National Archives and Records Service (NARS) of the General Services Administration operates a system of fifteen Federal Records Centers(FRC). The most significant reasons records centers are of great importance in the management of records today are the savings in space and equipment costs. Exhibit 1 shows the FRCs serving EEOC offices.

B. SELECTING FILES FOR TRANSFER. Inactive or semiactive records should not be allowed to occupy expensive filing equipment and prime office space. Official files selected for transfer to Federal Records Centers should meet the following criteria:

1. Appear on the EEOC comprehensive records control schedules or the GSA General Records Schedules and be designated for transfer to a Federal Records Center.

2. No longer needed to carry out current office operations.

3. Referred to only occasionally (usually not more than once a month per file drawer) in the normal course of events.

4. Not eligible for immediate destruction.

5. Not eligible for destruction within one(1) year from the date of transfer.

Before transferring records to a center, offices should remove disposable records, including nonrecord material. For example, the items appearing on the Disposition of Transitory and Nonrecord Material, Chapter VII of this Handbook should not be transferred.

C. PREPARING RECORDS TRANSFER FORMS. Once it has been determined that a series of records should be retired to a Federal Records Center care should be taken to prepare the records properly for transfer. Transfer to Federal Records Centers must be accompanied by a Standard Form(SF) 135, Records Transmittal and Receipt. Standard Form 135A, Records Transmittal and Receipt (continuation) will be used as necessary. These forms serve as packing lists for the transfer and are used to control the location and disposition of files in the centers. (See Exhibit 2)

1. Preparation and Explanation of SF 135. Prepare a SF 135 (and SF 135A as needed) in an original and three copies for each series of records to be transferred to a Federal Records Center. Complete each corresponding item on the form as follows:

(1) Enter the address for the records center serving your office (See Exhibit 1).

(2) Enter name and title of Office or Division Director.

(3) Enter the name and FTS telephone number of the person to whom questions about the records may be directed.

(4) Leave blank.

(5) Enter your office's complete address.

(6) a,b and c leave blank (see paragraph C2)

(6) d. Enter the total volume (in cubic feet) for each series of records being transferred.

(6) e. Show the inclusive box numbers for each accession being transferred. Each new accession should begin with number 1 and each carton should be numbered sequentially as follows: 1 of 10, 2 of 10, 3 of 10, etc.

(6) f. Describe the records in sufficient detail to allow the records center to check for the proper application of the disposal authority and to facilitate reference service. Inclusive dates of the records should be shown. Special restrictions should be detailed here as noted in the following item.

(6) g. Enter one of the following codes to show the restriction on the use of the records:

Code	Restrictions
Q	Q security classification
T	Top Secret security classification
S	Secret security classification
C	Confidential security classification
R	Restricted use - witnessed disposal not required (specify in column (f))
W	Restricted use - witnessed disposal required (specify in column (f))
N	No restrictions

(EEOC records are normally covered under codes R, W or N.)

Other restrictions, such as limiting access to certain Commission officials, are to be specified by a statement in the

(6) h. For each series of record cite the EEOC records control schedule or the GSA General Records Schedule, as appropriate, and the specific item number authorizing disposition. Paperwork will be returned to your office if this column is not completed correctly.

(6) i. Enter the month and year the records should be destroyed by applying the disposition authority cited in column 6h.

(6) j through m, leave blank. The records center will complete these columns when the transfer is approved.

NOTE: THE SF 135 IS THE ONLY RECORD THAT EEOC RETAINS TO DESCRIBE RECORDS TRANSFERRED FROM YOUR OFFICE. THIS DOCUMENT IS VITAL IN LATER YEARS IF YOUR OFFICE NEEDS TO RETRIEVE SPECIFIC PAPERS. THE RECORDS MUST BE ADEQUATELY DESCRIBED.

2. Review and Distribution of SF 135. The EEOC Records Management Officer, ED-AA will review the SF 135 for completeness before records are sent to a records center. The following procedures apply for records sent to the Suitland Federal Records Center and the Regional Federal Records Centers.

(a) Suitland Federal Records Center. Offices served by this record center are to forward all copies of the SF 135 to the EEOC Records Management Officer for assigning the accession numbers. The EEOC Records Management Officer will record the accession numbers on all copies of the SF 135 and will return copies to the preparing office.

(b) Regional Federal Records Center. Offices served by one of the Regional Federal Records Centers will forward a copy (not the original) of the SF 135 to the EEOC Records Management Officer (ED-AA). The EEOC Records Management Officer will review the SF 135 to determine the appropriateness of the transfer and will accordingly notify the office by telephone. The Regional Federal Records Center seving your office will assign accession numbers upon receipt of the SF 135.

Upon receipt or notification of the approval of the SF 135, the preparing office will retain one copy for file and forward the original and two copies to the records center to arrive at least two(2) weeks (10 work days) before the desired date for records shipment. The records center reviews the SF 135 for completeness and to determine the propriety of the transfer. If the transfer is approved, the records center annotates block 6(j) of the SF 135 with the shelf location where each record series will be stored. A location number will be provided for the first carton in each series listed on the SF 135. The records center returns two copies of the SF 135 to the originating office, indicating that the records may be transferred. Delay in shipment of more than 30 days will result in the return of the SF 135 requiring resubmission of the accessioning paperwork. Offices are requested to forward a copy of the annotated SF 135 to the EEOC Records Management Officer for file.

D. SHIPPING CONTAINERS. Records are transferred in standard GSA records center cartons measuring 14 3/4 by 12 by 9½ inches. Each carton holds approximately 1 cubic foot of records. The cartons are available in a standard box (NSN 8115-00-117-8344) and a tuck bottom box (NSN 8115-00-117-8249) and may be obtained from the nearest GSA Federal Supply Service. The boxes will accommodate either letter-size or legal-size material. Special boxes may be obtained for oversized or odd-sized material, such as punched cards, magnetic tapes or microfilm, when necessary. Non-standard boxes cannot be used because they will not fit on the shelving at the Federal Records Center.

E. PACKING THE CONTAINERS. Before placing records in the GSA boxes, make sure that any records eligible for destruction are destroyed, and that any blocks of published materials are removed from the files. Do not, however, remove single copies of publications which are part of the files. Also do not screen records on a time-consuming paper-by-paper basis.

Without disturbing the existing filing arrangement, pack the records snugly in the box. Do not force them; leaving a half-inch space in each box will permit easy withdrawal of individual folders for reference service. Folders should be packed upright, with letter-size folders facing the front of the container and legal-size folders facing the left side of the box (see Exhibit 3, Illustration 1). Pack records having the same retention periods in the same box. Conversely, do not place records having different retention periods in one box.

F. LABELING AND SEALING CONTAINERS. Following approval of the SF 135 by the records center and prior to shipment, the originating office marks (black felt marker) each carton in the shipment with the assigned accession number in the upper left hand corner of the front of the box. The originating office's own box number is marked on each carton in the upper right corner of the front of the box (e.g., 1-10, 2-10, 3-10, etc.). (See Exhibit 3, Illustration 1). The originating office places one copy of the SF 135 in the first carton of each accession, and the records are shipped to the center.

If records being retired are to be transported a short distance (50 miles or less) by Government vehicle, the flaps of the boxes need only to be tucked (see Exhibit 3, Illustration 2).

Shipments over long distances or by commercial carrier require taping and, in some instances, reinforcing the bottom and corners (see Exhibit 3, Illustration 3).

G. SHIPPING THE RECORDS. The physical transfer of records to the records center should be accomplished as soon as possible after the originating office has received the annotated copies of the SF 135 (see paragraph C2).

1. Headquarters offices are to notify the EEOC Records Management Officer, ED-AA to make arrangements for files to be sent to the Suitland Federal Records Center.

2. Field offices should use a shipping method which will be at the lowest cost possible. When using commercial carriers obtain the lowest freight rate for "old" office records by including the following statement on bills of lading or other shipping documents:

> The agreed or declared volume of this property is hereby specifically stated by the shippers not to exceed 3.5 cents per pound.

For additional information on shipping a large volume of records, contact the nearest GSA Regional Office, Transportation Services Division.

Upon receipt of the records shipment in the center, the cartons are matched against the copy of the SF 135 submitted with the accession. That copy is then signed by the Chief, Accession and Disposal Branch, and returned to the EEOC office for its files. Any changes in location number will be noted on this receipt copy before it is returned to the originating office.

LIST OF FEDERAL RECORDS CENTERS
SERVING EEOC OFFICES

GSA REGION	EEOC OFFICES	FEDERAL RECORDS CENTERS
1	Boston Area Office	Federal Archives & Records Center, GSA 380 Trapelo Road Waltham, Massachusetts 02154 FTS: 8-223-2657 Local: (617) 223-2657
2	New York District Office Buffalo Area Office Newark Area Office	Federal Archives & Records Center, GSA Bldg. 22, Military Ocean Terminal Bayonne, New Jersey 07002 FTS: 8-341-6455 Local: (201) 645-5953
3	Philadelphia District Office Pittsburgh Area Office	Federal Archives & Records Center, GSA 5000 Wissahickon Avenue Philadelphia, Pennsylvania 19144 FTS: 8-486-5593 Local: (215) 951-5593
3	Baltimore District Office Norfolk Area Office Richmond Area Office Washington, D.C. Area Office Headquarters	Washington National Records Center, GSA Washington, D.C. 20409 Shipping Address: (Do not use for mail) 4205 Suitland Road Suitland, Maryland FTS: 8-763-7633 Local: (301) 763-7633
4	Atlanta District Office Greenville Area Office Birmingham District Office Jackson Area Office Charlotte District Office Greensboro Area Office Raleigh Area Office Memphis District Office Louisville Area Office Nashville Area Office Miami District Office Tampa Area Office	Federal Archives & Records Center, GSA 1557 St. Joseph Avenue East Point, Georgia 30044 FTS: 8-246-7474 Local: (404) 763-7474

Exhibit 1

GSA REGION	EEOC OFFICE	FEDERAL RECORDS CENTERS
5	Chicago District Office Milwaukee District Office Minneapolis Area Office	Federal Archives & Records Center,GSA 7358 South Pulaski Road Chicago, Illinois 60629 FTS: 8-353-0161 Local: (312) 353-0161
5	Cleveland District Office Cincinnati Area Office Columbus Area Office Dayton Area Office Detroit District Office Indianapolis District Office	Federal Records Center, GSA 3150 Bertwynn Drive Dayton, Ohio 45439 FTS: 8-774-2852 Local: (513) 225-2852
6	Kansas City Area Office	Federal Archives & Records Service,GSA 2306 East Bannister Road Kansas City, Missouri 64131 FTS: 8-926-7271 Local: (816) 926-7271
6	St Louis District Office	National Personnel Records Center,GSA (Civilian Personnel Records) 111 Winnebago Street St Louis, Missouri 63118 FTS: 8-278-7247 Local: (314) 268-7247
7	Albuquerque Area Office Dallas District Office El Paso Area Office Oklahoma City Area Office Houston District Office San Antonio Area Office New Orleans District Office Little Rock Area Office	Federal Archives & Records Center,GSA P.O. Box 6216 Fort Worth, Texas 76115 Shipping Address:(Do not use for mail) 4900 Hemphill Street Building 1, Dock 1 Fort Worth, Texas FTS: 8-334-5515 Local: (817) 334-5515
8	Denver District Office	Federal Archives & Records Center,GSA Bldg. 48, Denver Federal Center P.O. Box 25307 Denver, Colorado 80225 FTS: 8-234-3187 Local: (303) 234-3187
9	San Francisco District Office Fresno Area Office Oakland Area Office San Jose Area Office	Federal Archives & Records Center,GSA 1000 Commodore Drive San Bruno, California 94066 FTS: 8-470-9006 Local: (415) 876-9006
9	Los Angeles District Office San Diego Area Office Phoenix District Office	Federal Archives & Records Center,GSA 24000 Avila Road Laguna Niguel, California 92677 FTS: 8-796-4221 Local: (714) 831-4221
10	Seattle District Office	Federal Archives & Records Center,GSA 6125 San Point Way Seattle, Washington 98115 FTS: 8-399-4502 Local: (206) 442-4502

EXAMPLE ONLY

RECORDS TRANSMITTAL AND RECEIPT

Complete and send original and two copies of this form to the appropriate Federal Records Center for approval prior to shipment of records. See specific instructions on reverse.

PAGE 1 OF PAGES

1. TO (Complete the address for the appropriate records center serving your area)

Federal Archives and Records Center
General Services Administration
(ENTER STREET ADDRESS FOR NEAREST FEDERAL RECORDS CENTER)

2. FROM (Enter the name and complete mailing address of the office making the records. The signed copy of this form will be sent to this address)

*U. S. Equal Employment Opportunity Commission
(And the Street Address of the Office)

3. AGENCY TRANSFERRING AUTHORIZATION — TRANSFERRING AGENCY OFFICIAL (Signature and title) — DATE
(Enter name and title of Office/ Division Head)

4. AGENCY CONTACT — TRANSFERRING AGENCY LIAISON OFFICIAL (Name, office and telephone No.)
(Enter name and FTS telephone number of person transferring files)

5. RECORDS CENTER RECEIPT — RECORDS RECEIVED BY (Signature and title) — DATE
(Leave Blank)

6. RECORDS DATA

ACCESSION NUMBER: NO. (a)	FY (b)	REQUESTED (c)	VOLUME (cu. ft.) (d)	AGENCY FILE REFERENCE (e)	SERIES DESCRIPTION (With inclusive dates of records) (f)	RESTRICTION CODE (g)	DISPOSAL AUTHORITY (Schedule and item number) (h)	DISPOSAL DATE (i)	COMPLETED BY RECORDS CENTER: LOCATION (j)	BOX (k)	SHELF (l)	SECTION (m)
To be assigned by the Regional Federal Records Center for field offices records. Offices forwarding files to the Suitland Records Center obtain numbers from EEOC Records Officer Headquarters.			5	1 to 5	EEO-1 Employer Information Report January - March, 1979	R	EEOC Schedule Item 129(1)(a)	1/90				
			10		Decision Files. Cases files having last action taken January to June 1979. (Witness required at time of disposal.)	W	EEOC Schedule Item 14C(5)(b) 2	7/83				
				1 of 10	(List charge number of each box, e.g., 032781234 to 032781244							
				2 of 10	032781245 to 032781265							
			5		EEO Internal Program Records. Official Discrimination Complaint Files. Cases resolved January to December 1978	R	GRS 1, Item 26a(1)	1/83				
				1 of 5	(list by case name and number)							
				2 of 5	" " " "							
					Files restricted to official use of EEOC employees only.							

Standard Form 135 (Rev. 6-70)
Prescribed by GSA
FPMR (41 CFR) 101-11.4

INSTRUCTIONS FOR COMPLETION OF STANDARD FORM 135

FOR COMPLETION BY THE TRANSFERRING AGENCY

Items 1, 2, 3 and 5 are self-explanatory. Specific instructions for item 6 are as follows:

Col.

Accession Number. A separate accession number is required for each series of records listed on the form. A series consists of records having the same disposal authority and disposal date that are transferred together to the records center. The accession number is entered in three parts, consisting of:

(a) The NARS record group number assigned to the records of the agency making the transfer;

(b) The last two digits of the current fiscal year; and

(c) A four digit sequential number obtained in advance from the records center. (Arrangements may be made with the center to have these numbers assigned by the agency records officer or other official.)

(d) Volume. Enter the volume in cubic feet of each series of records being transferred.

(e) Agency Box Numbers. Show the inclusive box numbers for each series of records being transferred. The agency shall number each carton sequentially as follows: 1 of 25, 2 of 25, 3 of 25, etc. (Each new series of records should begin with carton number 1.) To facilitate control of the records and future reference service, the agency also shall mark each container with the assigned accession number prior to shipment.

(f) Series Description. Describe the records in sufficient detail to allow the records center to check for proper application of the disposal schedule. Inclusive dates of the records should be indicated. Show the organizational component that created the records when it is other than that shown in item 5.

(g) Restriction. Enter one of the following codes to show a restriction on use of the records. Restrictions other than (or in addition to) security classifications, such as limiting access to certain agency officials, are to be specified by a statement in the Series Description column (f).

Code	Restriction
Q	Q security classification
T	Top Secret security classification
S	Secret security classification
C	Confidential security classification
R	Restricted use—*withdrawal disposal not required* (specify in column (f))
W	Restricted use—*withdrawal disposal required* (specify in column (f))
N	No restrictions

(h) Disposal Authority. For each series of records, cite the agency schedule and specific item number authorizing disposal. (Cite the NARS disposal job and item number if it has not been incorporated into an updated agency schedule.

(i) Disposal Date. Applying the disposal authority previously cited in column (h), enter the month and year in which the records may be destroyed.

FOR COMPLETION BY THE RECORDS CENTER

Item 6 is self-explanatory. Specific instructions for item 6 are as follows:

Col.

(j) Location. The records center maintains the shelf location of the first carton for each series of records.

(k) Shelving Plan. The records center enters the appropriate code from Chap. 7-10c, NSN, Records Center Operations (NAR P 1864.1A), to reflect the shelving system.

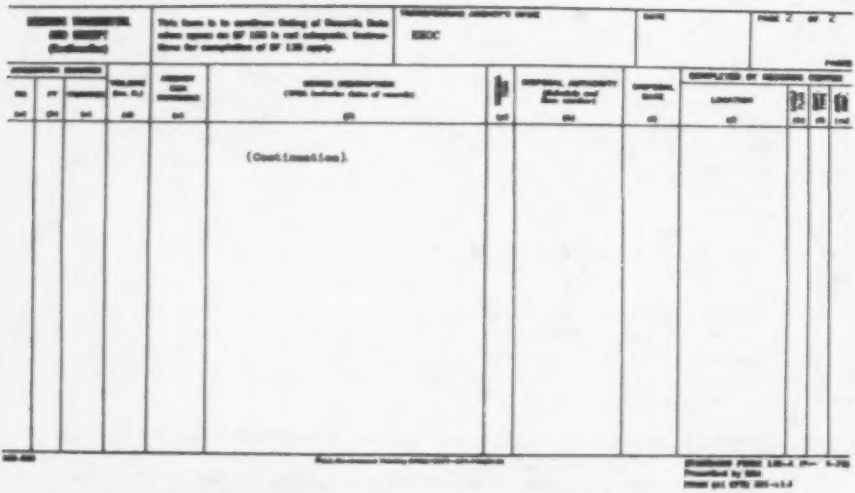
(l) Container Type. The records center enters the appropriate code from Chap. 7-10b, NAR P 1864.1A, to reflect the type of container in which the records are retired.

(m) Automatic Disposal. The records center enters either *Y* (yes) to indicate automatic disposal applies or *N* (no) indicating that the agency wishes to receive disposal concurrence notice prior to destruction of the records. Automatic disposal is applied only where previously agreed upon by the agency.

Use Standard Form 135-A, Records Transmittal and Receipt Continuation, when additional space is required for listing records data.

Standard Form 135 Back (Rev. 6-70)

Exhibit 2



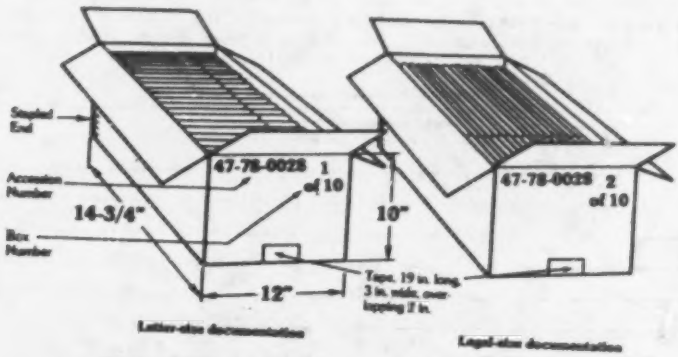


ILLUSTRATION 1 – PACKING AND LABELING CONTAINERS

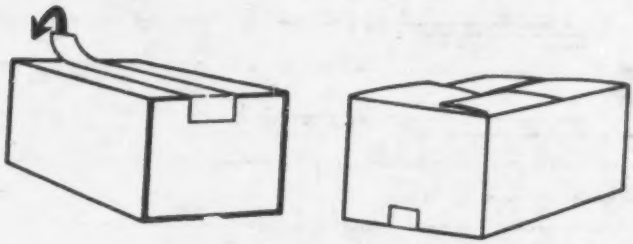


ILLUSTRATION 2 – CLOSING AND SEALING BOXES

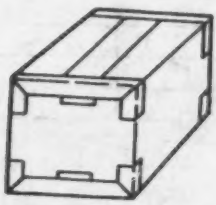


ILLUSTRATION 3 – REINFORCING BOXES

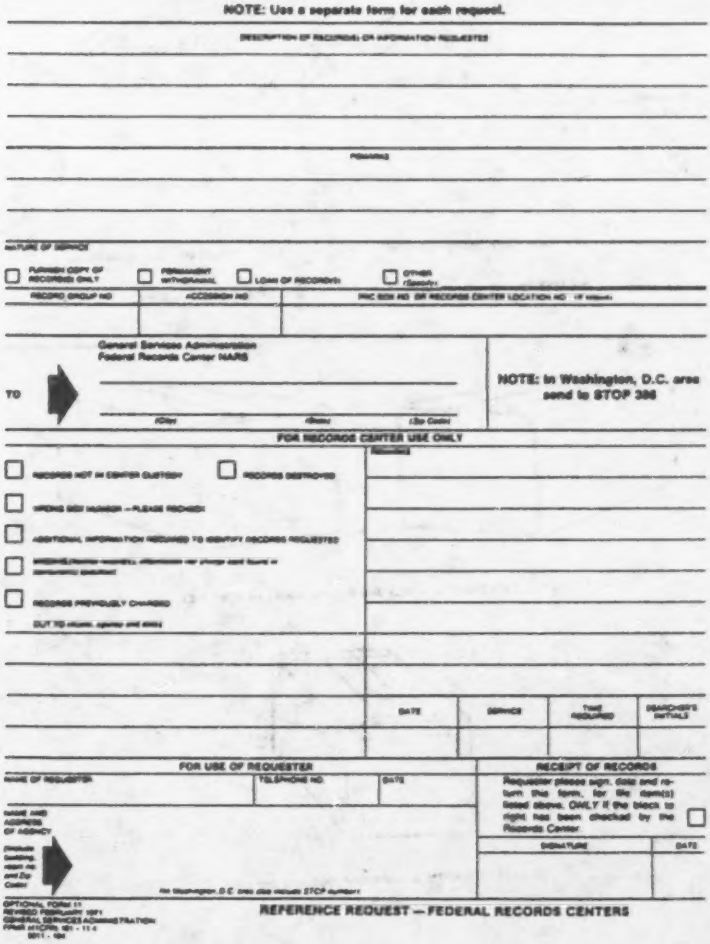
Exhibit 3

CHAPTER VI - RETRIEVAL SERVICE

A. ROUTINE REQUESTS. Records can be readily retrieved from Federal Records Centers(FRC). Routine requests should be made by completing Optional Form 11, Reference Request - Federal Records Center (see Exhibit 1). When requesting this service, be sure to furnish complete delivery information to include your name and telephone number, building name, and street address. The records must be identified by accession number, box number in which the records are likely to be found, a precise description of the records needed, and the FRC location number. This information is available from the SF 135 prepared at the time the records were transferred to the center.

B. URGENT REQUESTS. Telephone the records center only when requests are urgent. Boxes or individual folders (if properly identified) may be obtained. In true emergencies, Records Centers will also provide information from records over the telephone if the specific record is sufficiently well identified.

C. RETURNING THE FILES. Withdrawn records should be returned in the order in which they were originally sent. When necessary to withdraw original documents for legal purposes, substitute copies should be provided to complete the file. Return the file to the Records Center promptly with a list of the original documents retained. The borrower is responsible for returning the original documents when they are no longer needed.



NOTE: Use a separate form for each request.

(DESCRIPTION OF RECORDS OR INFORMATION REQUESTED)

(REMARKS)

(NATURE OF SERVICE)

☐ FURNISH COPY OF RECORDS ONLY ☐ PERMANENT WITHDRAWAL ☐ LOAN OF RECORDS ☐ OTHER (Specify)

RECORD GROUP NO	ACCESSION NO	FRC BOX NO. OR RECORDS CENTER LOCATION NO. (If known)

TO: General Services Administration, Federal Records Center NARS

(City) (State) (Zip Code)

NOTE: In Washington, D.C. area send to STOP 306

FOR RECORDS CENTER USE ONLY

(Remarks)

☐ RECORDS NOT IN CENTER CUSTODY ☐ RECORDS DESTROYED

☐ WRONG BOX NUMBER – PLEASE RECHECK

☐ ADDITIONAL INFORMATION REQUIRED TO IDENTIFY RECORDS REQUESTED

☐ (Missing/Invalid requisition, withdrawal or charge card form or authorization) submitted

☐ RECORDS PREVIOUSLY CHARGED

(OUT TO (Name, agency and area))

DATE	SERVICE	TIME REQUIRED	SEARCHER'S INITIALS

FOR USE OF REQUESTER

(NAME OF REQUESTER) (TELEPHONE NO.) (DATE)

(NAME AND ADDRESS OF AGENCY) (Include branch, room no. and Zip Code)

(For Washington, D.C. area also include STOP number)

RECEIPT OF RECORDS

Requester please sign, date and return this form, for the item(s) listed above, ONLY if the block to right has been checked by the Records Center. ☐

SIGNATURE	DATE

(OPTIONAL FORM 11 REVISED FEBRUARY 1971 GENERAL SERVICES ADMINISTRATION FPMR (41 CFR) 101 - 11.4 5011 - 104)

REFERENCE REQUEST – FEDERAL RECORDS CENTERS

Exhibit 1

CHAPTER VII

DISPOSITION OF TRANSITORY AND NONRECORD MATERIAL

No files other than the types described below and those authorized under the HEOC and GSA Records Control Schedules, should be destroyed without consulting the Records Management Officer. All of the material described below should be disposed of as indicated.

DESCRIPTION	DISPOSITION
Telephone directories	Destroy when obsolete
Manual issuances and directives	Destroy when obsolete
Lists of conferences and meetings (except current list)	Destroy when obsolete
Extra or stock copies of documents no longer needed for distribution	Destroy or return to stock
Commercial and industrial catalogues and price lists	Destroy when obsolete
Publications from other Government agencies which are not in current use, e.g., old U.S. Government Organizational Manuals	Destroy when obsolete
Technical magazines, periodicals	Send to library
Legislative Publications and Documents	
Congressional directories	Destroy when obsolete
Congressional records	Destroy when obsolete
Federal Register	Destroy when obsolete
Duplicate copies of appropriation hearings	Send to library
Office Working Files	
Rough drafts and working notes from which reports, staff papers, and other documents have been prepared and approved	Destroy when documents are approved
Stenographic notebooks from which notes have been transcribed	Destroy when notes have been transcribed and proofed
Duplicate copies of typed material	
Information copies of telegrams, dispatches, instructions, letters, memoranda, correspondence and other documents which are not part of the official subject or case file, excluding "Chron" file	Destroy when one year old
Reading "Chron" file	Destroy when six months old
Used stencils and multilith mats	Destroy when obsolete
Correspondence making routine arrangements for speeches, meetings, and related arrangements	Destroy when one year old
Correspondence forwarding publications, acknowledging letters or publications	Destroy when three months old
Letters and memoranda of transmittal without attachments	Destroy when three months old

DESCRIPTION	DISPOSITION
Letters, notes, and memoranda of simple acknowledgment and expression of appreciation for cooperation or assistance	Destroy when one year old
Requests for information and replies involving no administrative action, no new decisions by EEOC, and no original development of special data	Destroy when one year old
Correspondence regarding plans for conferences and meetings (e.g. invitations to attend and acceptances or regrets, notices, arrangements for space or facilities, arrangements for chairman or speakers) excluding record copy of finally approved agenda or programs, minutes, transcripts of proceedings, speeches delivered, and comments made at or after the meetings or conferences	Destroy when one year old
Obsolete mailing lists, notices of corrections in mailing lists, correspondence and memoranda regarding changes or corrections in mailing lists	Destroy when three months old
Correspondence, memoranda, and notices regarding changes or corrections in directories and like material	Destroy when three months old
Correspondence and internal memoranda regarding details of office management (e.g. forwarding of checks, arrangements for leave, for travel, general cooperation, itineraries, and similar material)	Destroy when one year old
Minor items of reference data sent to field offices solely for their information and not requiring any specific administrative action	Destroy when one year old
Requests for duplicating, photographing, preparation of graphics or charts, stenographic services, and similar services	Destroy when one year old
Records pertaining to charity drives, bond campaigns, and other voluntary activities not part of the regularly assigned functions of the agency	Destroy when one year old
Issuances, notices, reports, releases, tabulations, and publications of other agencies or private industry submitted for general information only	Destroy when one year old
File of carbon copies of individual time and attendance reports as maintained by timekeepers in each office	Destroy when one year old
NOTE: The office of origin of any published material should maintain a complete set, including obsolete and superseded items	
Supplies and Equipment	
Blank forms	Destroy when obsolete
Excess unused office supplies and forms which are not needed in the current operation of the office	Return to stock

CHAPTER VIII - RECORDS CONTROL SCHEDULES

A. EEOC COMPREHENSIVE RECORDS CONTROL SCHEDULES

1. Purpose. The Commission's comprehensive records control schedules (see Part A) have been approved by the National Archives and Records Service and form the foundation of the Commission's records disposition program. The standards established in these schedules are binding upon all who create, receive, maintain and dispose of official Commission documentation. Any deviation from these standards must be requested by written justification outlining why a particular series of records must be retained beyond the established standard, or disposed of before the completion of approved retention periods (see Chapter IV).

   The schedules prescribe how long records are to be kept, whether temporarily or permanently, and provide for:

   a. the preservation of records which are of long term or permanent value;

   b. the prompt disposal of records which do not warrant further retention; and

   c. the transfer of records to Federal Records Centers which are no longer needed in current business but are not eligible for disposal.

2. Applying the Schedules.

   a. The schedules describe the retention and disposition of administrative, policy, and mission records maintained and created in the Commission. The subjects of these records are outlined in the Table of Contents.

   b. Each series of records is identified with an item number and a description of the subjects covered under that series. While no single office is expected to have each series of records identified, like records will have like retention and disposition throughout the Commission.

   c. Items 1 through 11 are administrative records, and are patterned after the General Records Schedules (GRS) issued by the National Archives and Records Service (NARS). (See Part B for copies of the GRS). The corresponding GRS number and item are either indicated in parenthesis following the description of the records or referenced as the disposal authority.

   d. Items 12 through 25 are the program records. Most of these records are of historical significance documenting the policy making and program management functions of the Commission.

   e. The disposal authority for the records is separated into two categories, "Record Copy" and "All Other Copies." The "Record Copy" is the official record created or maintained by the office responsible for that particular function. That office is known as the "Program Office," which is indicated in parenthesis following the words "Record Copy." The disposal authority for "All Other Copies" covers duplicate copies and copies maintained by other offices having similar records, but not considered to be the office of record. (See the Table of Contents for the list of offices having primary responsibility for the program records.)

   f. Those records identified as permanent are considered to be of achival value and eventually will be offered to the National Archives and Records Service.

B. GSA GENERAL RECORDS SCHEDULES

1. Requirements. The GSA General Records Schedules (GRS) (see Part B) will be used in all offices for disposition of non-program records. The EEOC schedules will reference the appropriate GSA Schedule as the disposal authority.

2. Distribution of GSA Schedules. GSA Schedules 15, 17, 19 and 22 (see GRS Table of Contents) are not applicable to EEOC and will not be provided to EEOC offices. GSA Schedule 20 will be provided to the Office of Program Planning and Evaluation, only. Copies of these schedules are available from the Administrative Services and Records Management Division, Office of Admiinistration.

EEOC SCHEDULES

PART A

PART A
EEOC COMPREHENSIVE RECORDS CONTROL SCHEDULES

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PERMANENT RECORDS

The following records are considered to be of archival value because they outline the policies, executive direction, and major program functions of the Equal Employment Opportunity Commission.

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(RESERVED)

PROGRAM RECORDS

The following is a list of Offices having primary responsibility for the official record copy of program records. The list does not preclude the fact that more than one office may have the record copy of a file item. For example, more than one office may have the record copy of files maintained on "Project Control Files" (Item 10F) or "Committee and Conference Records (Internal)" (Item 11.J.(b)).

Offices	Item
Office of Administration	1.A. 4. 6. 7. 8. 9. 11. A, B, C, E, G, I, and K.
Commissioners	13. A. and B.
Office of Congressional Affairs	15. C. and D.
District and Area Offices	14. C. 15. B.
Office of Equal Employment Opportunity	1.B. 14.G.(2)
Office of Field Services	14. A thru E
Office of General Counsel	10. E. and F. 14. A and 14.C. (5) 1 15.
Office of Government Employment	1.B. 10.A(3) 14.G.
Office of Interagency Coordination	11.J.(1)(a) 1 11.J.(2)(a) 1
Office of Policy Implementation	13.C and D. 14.A
Office of Program Planning and Evaluation	2. 3. 5. 10.A(3) 11.D. and K. 12.A to C.

Offices	Item
Office of Public Affairs	10.A to D, and G.
Office of Review and Appeals	1.B. 13.D. 14.G. 16. H
Office of Special Projects and Programs	14.F
Office of Systemic Programs	14.E. 15.B.

PART A, EEOC COMPREHENSIVE RECORDS CONTROL SCHEDULES

Item No.	Description of Records	Authorized Disposition
1.	PERSONNEL RECORDS. Material pertaining to all phases of internal personnel administration, including the internal Equal Employment Opportunity Records.	
	A. PERSONNEL ADMINISTRATION FILES.	
	(1) Record Copy (Program Office)	Use GRS 1, Items 1b to 25, and 27 to 32
	(2) All Other Copies.	Destroy on an annual basis.
	B. EEO PROGRAM (INTERNAL) RECORDS.	
	(1) Record Copy. (Program Office)	Use GRS 1, Item 26
	(2) All Other Copies.	Destroy on an annual basis.
2.	PAYROLLING AND PAY ADMINISTRATION. Records pertaining to disbursement to civilian employees of the Government for personal services, including records incidental to the payrolling processes; i.e., withholding tax and savings bonds records, reports made on income tax and retirement transactions, and other records not pertaining to individuals, but rather to the general administration of the payrolling office and function.	
	A. Record Copy. (Program Office)	Use GRS 2, Items 1 to 24
	B. All Other Copies.	Destroy on an annual basis.
3.	BUDGET AND FINANCE RECORDS. Records include various files accumulated in the course of formulating budget for submission to OMB and the Congress, which include records pertaining to budget preparation, presentation and apportionment; and files related to internal fiscal transactions.	
3. (Cont'd)	A. BUDGET POLICY FILES. Correspondence or subject files of the formally organized budget office documenting the Commission's policy and procedures governing budget administration, and reflecting policy decisions affecting expenditures for EEOC programs.	
	(1) Record Copy. (Program Office)	Transfer to FRC five(5) years from the end of the fiscal year to which the records relate. Destroy ten years from the end of the fiscal year to which the records relate. (GRS 5, Item 1)

	(2) All other Copies.	Destroy on a fiscal year basis or when no longer needed for reference.
	B. BUDGET ESTIMATES AND JUSTIFICATION FILES. Copies of budget estimates and justifications prepared or consolidated at the Headquarters budget office, including appropriation language sheets, narrative statements, and related schedules and data.	
	(1) Record Copy. (Program Office)	Transfer to FRC five(5) years from the end of the fiscal year to which the records relate. Destroy ten(10) years from the end of the fiscal year to which the records relate. (GRS 5, Item 2)
	(2) All Other Copies.	Destroy one (1) year after the close of the fiscal year covered by the budget.
3. (Cont'd)	C. OTHER BUDGET RECORDS. General correspondence files, background records, reports and related budget matters not specifically identified elsewhere in this schedule.	
	(1) Record Copy. (Program Office)	Use GRS 5, Items 3 to 6.
	(2) All Other Copies.	Destroy on a fiscal year basis.
	D. ACCOUNTABLE OFFICERS' ACCOUNTS RECORDS. Record copies of all records concerned with the accounting for availability, and status of public funds, including records held for on-site audit by the General Accounting Office.	
	(1) Record Copy. (Program Office)	Use GRS 6, Items 1 to 9
	(2) All Other Copies.	Destroy when one (1) year old.
	E. EXPENDITURE ACCOUNTING RECORDS. Ledgers and related documents maintained to show in summary form the source and nature of receipts, and the manner of expenditures of funds, appropriated and non-appropriated after allotment by the Office of Management and Budget.	
	(1) Record Copy. (Program Office)	Use GRS 7, Items 1 to 4.
	(2) All Other Copies.	Destroy when one (1) year old.
	F. STORES, PLANT, AND COST ACCOUNTING RECORDS. Records periodically reconciled with supply data reflected in stock inventory records, but are not procurement papers. Files, include records maintained to provide personal accountability for the receipt and custody of materials, including their monetary worth; to record the principal characteristics of each item of physical plan and equipment as source of data of the capital investment; and to	

Item No.	Description of Records	Authorized Disposition
	show data on the direct and indirect costs of production, administration, and the performance of program functions.	
	(1) Record Copy. (Program Office)	Use GRS 8, Items 1 to 8
	(2) All Other Copies.	Destroy when one (1) year old.
4.	SUPPLIES AND EQUIPMENT RECORDS. Records pertaining to the procurement, storage, utilization, accountability, and disposal of furniture, office supplies and equipment, and similar materials used by/for EEOC.	
	A. PROCUREMENT AND SUPPLY MANAGEMENT FILES. Records documenting the acquisition of goods and non-personal services, controlling the volume of stock on hand, reporting procurement needs and related supply matters which are part of daily procurement operations.	
	(1) Record Copy. (Program Office)	Use GRS 3, Items 1 to 13
	(2) All Other Copies.	Destroy when one (1) year old.
	B. PROPERTY DISPOSAL RECORDS. Records pertaining to the sale, donation and transfer of personal property surplus to the needs of the Commission.	
	(1) Record Copy. (Program Office)	Use GRS 4, Items 1 to 7.
	(2) All Other Copies.	Destroy when one (1) year old.
5.	TRAVEL AND TRANSPORTATION RECORDS. Records pertaining to the shipment and routing of equipment, material, and supplies for the use of EEOC, and material covering the subsistence and travel of individuals. For records supporting payments as part of the accountable officers' accounts, or which are accounting posting media, see Items 3D and E of this schedule for appropriate disposition.	
	A. Record Copy. (Program Office)	Use GRS 9, Items 1 to 5
	B. All Other Copies.	Destroy when one (1) year old.
6.	MOTOR VEHICLE MAINTENANCE AND OPERATION RECORDS. Records pertaining to the management, maintenance, and operation of motor vehicles used by EEOC, including records consisting of chauffeur service logs and reports, vehicle repairs and maintenance check-off sheets, costs ledgers, and claims correspondence and forms.	
	A. Record Copy. (Program Office)	Use GRS 10, Items 1 to 7
	B. All Other Copies.	Destroy when one (1) year old.

7. SPACE AND MAINTENANCE RECORDS. Records documenting space and maintenance matters, and pertaining to the acquisition, allocation, utilization, and release of space; related correspondence and reports submitted to the General Services Administration; correspondence and forms relating to the compilation of directory service listings; identification and related accountable records; requests for building and equipment services; and correspondence files reflecting the activities of the program office responsible for handling space and related matters for the Commission. Includes disposal of all copies wherever located.

A. Record Copy. (Program Office) — Use GRS 11, Items 1 to 5

B. All Other Copies. — Destroy when one (1) year old.

8. COMMUNICATIONS RECORDS. Records documenting communication functions, which include messenger service data; summary of long distance telephone reports; postal records; mail control records; copies of penalty mail reports; and records relating to private delivery services (such as United Parcel Service).

10. (Cont'd)

(b) One-Time reports and studies of particular policy-making significance;

(c) Technical publications that address various aspects of the mission of the Commission. Examples are the Research Reports series, such as the State and Local Government Functional Profile Series, Minorities and Women in State and Local Government, and Employment Status of Spanish Surnamed Americans; and

(d) General Interest publications, which are copies of a large number of items created by or on behalf of the Commission for the education of the public about the Commission's activities and aims. Examples of such publications are EEOC at a Glance/EEOC a la Vista, (Spanish and English versions), Job Discrimination -- Laws and Rules You Should Know, Affirmative Action and Equal Employment -- A Guidebook for Employers, and the Mission newsletter.

1 Record Copy. (Program Office) — PERMANENT. Break files annually. Offer to NARS six (6) months after file break.

2 All Other Copies. — Destroy on site when revised, superseded, obsolete, or no longer circulated.

B. INFORMATION SUBJECT FILES. (Arranged alphabetically by subject.) Subject files of the Office of Public Affairs, including public inquiries regarding the activities of EEOC, and other similar public relations functions. (GRS 14, Item 2)

Item No.	Description of Records	Authorized Disposition
10. (Cont'd)	(1) Record Copy. (Program Office)	Break files annually. Transfer to Federal Records Center when two(2) years old. Destroy when five(5) years old.
	(2) All Other Copies.	Destroy on site when one(1) year old.
	C. INFORMATION PROJECT FILES. (Arranged alphabetically by subject.) Informational services project case files, which include records created and maintained on external exhibits; public service announcements for the media; seminars and forums; and other related activities involving public relations.	
	All Copies.	Destroy one (1) year after completion of project or close of file. (GRS 14, Item 6)
	D. PRESS SERVICE FILES.	
	(1) Media Morgue. (Arranged by subject and thereunder chronologically) Original clippings from major news publishers or media (NY Times, Washington Post, National Journal, Federal Times, etc.), trade journals, and regional and minority press, relating to EEOC and its mission.	PERMANENT. Offer to NARS when four (4) years old.
	(2) Clipboard. (Arranged chronologically) Daily or weekly compilation of news clippings relating to EEOC and its mission, selected and distributed to EEOC offices by the Office of Public Affairs.	
	All Copies.	Destroy when one (1) year old.
10. (Cont'd)	E. FREEDOM OF INFORMATION ACT (FOIA) RECORDS. Records consist of inquiries, replies, reports, appeal cases, in carrying out the provisions of the Freedom of Information Act.	
	(1) Record Copy. (Program Office)	Use GRS 14, Items 16 to 20
	(2) All Other Copies.	Destroy when no longer needed for reference.
	F. PRIVACY ACT RECORDS. Records consist of inquiries, replies, reports, appeal cases, and related correspondence in carrying out the provisions of the Privacy Act.	
	(1) Record Copy. (Program Office)	Use GRS 14, Items 25 to 30
	(2) All Other Copies.	Destroy when no longer needed for reference.

D. AUDIOVISUAL RECORDS. Covers records used to promote and document EEOC programs, which include still pictures, motion pictures, sound recordings, video recordings, and related documentation used for or necessary to the proper identification and retrieval, or bearing on the origin, acquisition, use, and ownership of the records. (For additional audiovisual records not specifically identified below, refer to GSA General Records Schedule (GRS) 21.)

(1) Still Pictures (Arranged by title) Records include photographs, slide sets, filmstrips, posters, original artworks, and other pictorial records. (GRS 21, Items 1a to d)

(a) Photographs of Commissioners, Chairman, and other key EEOC personalities; other photographs which document the organization, functions, policies, and procedures, and essential transactions of the Commission.

10. (Cont'd)

1 Black and white photographs. The original negative and a captioned print.	PERMANENT. Break file every 5 years. Offer to NARS when 10 years old or when no longer needed for administrative purposes, whichever occurs first.
2 Color photography. The original color transparency or color negative, a captioned print, and an internegative, if available.	PERMANENT. Break file every 5 years. Offer to NARS when no longer needed for administative use or when 10 years old, whichever occurs first.
(b) Slide/tape shows, such as "Destroying the Myths," created by EEOC to document its history or significant events.	PERMANENT. Offer slide set, script, and accompanying audio recording to NARS when 10 years old or when no longer needed for administrative purposes, whichever occurs first.
(c) Photographs included as part of a project file, case file, report report, or similar record.	Dispose of in accordance with the disposition instructions for the records of which they are a part.
(d) Additional duplicate prints or negatives of photographs that have limited administrative use or interest and are transitory in nature; and photographs of low-level administrative staff functions and ceremonial activities, such as award presentations and commendations.	Destroy in agency when no longer needed for administrative purposes, in accordance with FPMR 101-42.303-1. (GRS 21, Item 1c)

10.(Cont'd) (2) Sound Recordings. (Arranged by title) (See Item 13C(3) for tape recordings of Commission meetings.) (GRS 21, Item 3a to d)

	(a) Sound recordings of significant speeches, press conferences, committee meetings, and Congressional testimony of the EEOC Chairman. The original tape or earliest generation of magnetic audio tape recordings (reel-to-reel, cassette, or cartridge).	PERMANENT. Break files every 5 years. Offer to NARS when no longer needed for administrative use, or when 5 years old, whichever is sooner.
	(b) Public service announcements of television and radio advertisments; and announcements promoting the Commission's programs and activities.	PERMANENT. Offer to NARS when five (5) years old or when no longer needed for administrative use, whichever is sooner.
	(c) Sound recordings which have limited administrative use or interest only; e.g., internal training, orientations, mock litigation actions, and routine Commission activities.	Destroy in agency when no longer needed for administrative use. (GRS 21, Item 3c)
	(3) Video Recordings. (Arranged by title) (GRS 21, Item 4a to d)	
	(a) Video Recordings of significant events and documentation of the Commission, such as the Chairman's Congressional Testimony.	PERMANENT. Offer video recordings when five (5) years old or when no longer needed for administrative purposes, whichever occurs first.
10.(Cont'd)	(b) Video recordings which have limited administrative use or interest, and subject matter that is transitory or of local interest only; e.g., internal training, orientations, mock litigation actions, and routine Commission activities.	Destroy in agency when no longer needed for administrative use.
	(c) Public Service Announcements. (Arranged by title) Television advertisements and announcements by Hollywood actors or public officials promoting the Commission's programs and activities.	PERMANENT. Offer video recordings when five (5) years old or when no longer needed for administrative use, whichever occurs first.
	(4) Motion Pictures. (Arranged by title) (GRS 21, Item 2a to d).	
	(a) Films documenting significant Commission functions, policies, and procedures. For example:	
	1 "Voice of La Raza." Film on the problems facing the Spanish speaking community of the U.S. in its efforts to overcome the ravages of job discrimination. (16 mm color, 54 mins.)	
	2 "Power vs. The People." Film recording the hearing conducted by EEOC involving large national corporations on their hiring and promotion practices, which violate Title VII of the Civil Rights Act. (1970, 16mm color, 58 mins.)	

	3 "Struggle for Los Trabajos." Film deals with EEOC's investigation and conciliation process of a violation of the rights of a Mexican-American white collar worker. (16 mm color, 58 mins.)	
10.(Cont'd)	4 "EEOC." Film narrated by actress Ruby Dee, on the machinery of the EEOC and how it serves both the minority community and women. (16 mm color, 41 mins.)	PERMANENT. Offer original negative or color original plus separate optical sound track; intermediate master positive or duplicate negative plus optical sound track; and sound projection prints to NARS when five (5) years old or when no longer needed for administrative purposes, whichever occurs first.
	(b) Motion pictures which have limited administrative use or interest, and subject matter that is transitory or of local interest only; e.g., internal training, orientations, and routine Commission activities.	Destroy when no longer needed for administrative use in accordance with FPMR 101-42.303-1.
	(5) Finding Aids and Production Documentation for items identified in 10.G. (Arranged by titles) Audiovisual records which include finding aids such as data sheets, shot lists, catalogs, indexes, and other textual documentation necessary for the proper identification, retrieval, and use of the audiovisual records as well as, production case files or similar files which include copies of production contracts, scripts, transcripts, or other documentation bearing on the origin, acquisition, release or ownership of the audiovisual production. (GRS 21, Item 5)	Dispose of in accordance with instructions covering the related audiovisual records in Item 10.G (1), (2), (3), and (4).
11.	ADMINISTRATIVE MANAGEMENT RECORDS. Records relating to administrative management activities in the Commission. Files include material created in the course of organizational planning, development and simplification of procedures, records management activities, and administration of management improvement programs. This schedule applies to records wherever located in the Commission.	
	A. DIRECTIVE CASE FILES. (Arranged numerically) Copy of each internal directive issued at the headquarters level together with supporting documents, and controlled and maintained by office responsible for directives management. (GRS 16, Item 1a)	
	(1) Record Copy. (Program Office) Record copy of each directive issued documenting the Commission's regulations, organization, functions, policy, authority, and other important subject matters. For example, directives issued in the General Management Series (100), Management Program Series (200), Legal Series (600), Research Series(700), Voluntary Programs Series (800), State and Community Affairs Series(850) and Compliance Series (900).	PERMANENT. Transfer to Federal Records Center five (5) years after supersession or rescission. Offer to NARS ten (10) years from date of transfer *of latest records,* in ten (10) year blocks.

	(2) All Other Copies. Duplicate copies, working papers, and supporting case files of directives.	Destroy when directive is obsolete, superseded, or when no longer needed for administrative purposes.
	B. RECORDS DISPOSITION FILES. Descriptive inventories, disposal authorizations, schedules and reports, which include Standard Form 115, Request for Records Disposition Authority; Standard Form 135, Records Transmittal and Receipt and related documentation.	
11.(Cont'd)	(1) Record Copy. (Program Office) (GRS 16, Item 3a.)	Destroy on site when related records are destroyed, or when no longer needed for administrative or reference purposes.
	(2) All Other Copies, including routine correspondence and memoranda. (GRS 16, Item 3b.)	Destroy when no longer needed for reference.
	C. FORMS CONTROL RECORDS. (Arranged numerically by category.)	
	(1) Record copy of each form created in the Commission which relates to the compliance process, e.g., EEOC 5 "Charge of Discrimination", EEOC 131, "Notice of Charge of Employment Discrimination", EEOC 150, "Receipt for Copy of Charge of Discrimination", which are controlled and maintained by office responsible for forms management. (GRS 16, Item 4a)	PERMANENT. Transfer to inactive file when superseded or obsolete. Transfer to Federal Records Center five (5) years after file becomes inactive. Offer to NARS 15 years after "latest" file becomes inactive, in "ten (10)" year blocks.
	(2) Record copy of each form created in the Commission for administrative purposes and controlled and maintained by office responsible for forms management. (GRS 16, Item 4a)	Transfer to inactive file when superseded or obsolete. Destroy five (5) years after file becomes inactive.
	(3) All Other Copies, including working papers, background materials, requisitions, specifications, processing data, control records, and copies maintained by other EEOC activities. (GRS 16, Item 4b)	Destroy when related form is discontinued, superseded, or cancelled.
	D. MANAGEMENT IMPROVEMENT REPORTS. (Arranged by subject.) Reports submitted to the Office of Management and Budget and related plans, analyses and feeder reports. (GRS 16, Item 5)	
11.(Cont'd)	(1) Record Copy. (Program Office)	Break files annually. Destroy three(3) years after break or sooner if no longer needed for reference.
	(2) All Other Copies.	Break files annually. Destroy one (1) year after break.
	E. RECORDS HOLDINGS FILES. Statistical reports of the Commission's records holdings required by the General Services Administration, including feeder reports from all offices and data on the volume of records disposed of by destruction or transfer. (GRS 16, Item 6)	

	(1) Record Copy. (Program Office)	Destroy when three (3) years old.
	(2) All Other Copies.	Destroy when one (1) year old.
F.	PROJECT CONTROL FILES. (Arranged alphabetically by subject.) Memoranda, reports, and other records documenting assignments, progress and completion of projects. (GRS 16, Item 7)	
	All Copies.	Destroy one (1) year after the year in which the project is closed.
G.	REPORTS CONTROL FILES. (Arranged numerically) Case files on reports created, cancelled, or superseded, and containing evidence of their existence and/or their discontinuance. These files relate to reports for which there are formal requirements; they apply to files accumulated in the reports and not to the reports themselves. (GRS 16, Item 8)	
11.(Cont'd)	(1) Record Copy. (Program Office)	Destroy two (2) years after the report is discontinued.
	(2) All Other Copies.	Destroy when no longer needed for reference.
H.	WORKING PAPERS. Project background records such as studies, analyses, notes, drafts, and interim reports. (GRS 16, Item 10)	
	All Copies.	Destroy six (6) months after final action on project report or three (3) years after completion of report if no final action is taken.
I.	RECORDS MANAGEMENT FILES. (Arranged alphabetically by subject) Reports, correspondence, authorization, techniques and related records concerning the development and improvement of the management of records in the Commission. Includes the management of files, forms, correspondence, mail, reports, microfilm, automatic data processing, vital records, and related records not covered elsewhere in this schedule. (GRS 16, Item 11)	
	(1) Record Copy. (Program Office)	Destroy when six (6) years old.
	(2) All Other Copies.	Destroy when no longer needed for reference.
J.	COMMITTEE AND CONFERENCE RECORDS. (Arranged alphabetically by subject.) (See Item 13, B for Commission Meetings.)	
	(1) Creation. Records relating to establishment, organization, membership and policy.	

Item No.	Description of Records	Authorized Disposition
11. (Cont'd)	(a) Interagency, advisory or international committees for which Commission gives administrative support, e.g., the Commissioners Coordinating Committee for Interagency Matters. (GRS 16, Item 12a (1))	
	1 Record Copy. (Program Office)	PERMANENT. Break files annually. Transfer to Federal Records Center when five (5) years old. Offer to NARS when "latest records are" twenty (20) years old, in "ten (10)" year blocks.
	2 All Other Copies.	Destroy when one (1) year old or when no longer needed for reference.
	(b) All other committees, including internal committees. (GRS 16, Item 12a (2))	
	1 Record Copy. (Program Office)	Destroy files on site two(2) years after termination of committee.
	2 All Other Copies.	Destroy when one (1) year old, or when no longer needed.
	(2) Documentation. (Arranged alphabetically by subject) Records created by committees, including agenda, minutes, final reports, and related records documenting the accomplishments of official boards and committees.	
11.(Cont'd)	(a) Interagency, advisory or international committee records relating to Item J (1)(a) above. (GRS 16, Item 12b (1))	
	1 Record Copy. (Program Office)	PERMANENT. Break files annually. Transfer to Federal Records Center when five(5) years old. Offer to NARS when "latest records are" twenty (20) years old, in "ten (10)" year blocks.
	2 All Other Copies.	Destroy when three (3) years old or when no longer needed for reference.
	(b) All other committee records. (GRS 16, item 12b (2))	
	1 Record Copy. (Program Office)	Destroy when three (3) years old or when no longer needed for reference.
	2 All Other Copies.	Destroy when one (1) year old or when no longer needed for reference, whichever occurs first.

K. ORGANIZATIONAL AND FUNCTIONAL RECORDS. (Arranged alphabetically by subject) Official organizational charts, delegations of authority and special reports and studies that document the origin, administrative development and past and present organizational structure of the Commission. (GRS 16, Item 13)

(1) Record Copy. (Program Office) — PERMANENT. Break files annually. Transfer to Federal Records Center four (4) years after file break. Offer to NARS twenty (20) years after scheduled transfer *of latest records* in *ten (10)* year blocks.

(2) All Other Copies. — Destroy when superseded or obsolete.

12. PROGRAM PLANNING AND CONTROL FILES. (Arranged alphabetically by subject.) Documents developed and implemented on the Commission's program planning and control processes; which include management accountability systems, information (ADP) systems, and other related documents supporting the Commission's program plans and strategies.

A. PROGRAM PERFORMANCE AND REVIEW FILES. (Arranged alphabetically by subject.) Files consist of documents supporting the program performance goals identified in the comprehensive management improvement program to be achieved within a specific time frame, which include costs associated with implementation of program plans, analysis of the factors relating to resource expenditures, and program deficiencies and accomplishments. For example, Performance Management System files, and Fiscal Year Review Files. (See Item 11 D for management improvement reports submitted to the Office of Management and Budget.)

(1) Record Copy. (Program Office) — Break files at close of fiscal year. Destroy files three(3) years after file break.

12.(Cont'd) (2) All Other Copies — Destroy when one (1) year old or when no longer needed for reference, whichever is sooner.

B. RESEARCH AND SURVEY FILES. (Arranged alphabetically by subject.) Material pertaining to the receipt, analysis and distribution of statistical reports from employers, local unions, and joint labor-management apprenticeship committees throughout the U.S. on employment trends or patterns; survey contracts and other related surveys to support the Commission's programs and operations. (See Item 10.A(3) for publication of Reports.)

(1) Employer Information Reports.

(a) EEO-1, Employer Information Report. This report includes information regarding Private Industry work force as required by Title VII. The data includes number of employees, race, sex, job occupation, number of persons included in each category.

1 Hard Copy — Microfilm upon receipt of report. Destroy hard copy of report when microfilm is verified.

2 Microfilm. — Destroy when ten (10) years old or when no longer needed for reference, whichever is later.

12.(Cont'd)

3 Non-microfilmed Reports. — Transfer reports to Federal Records Center upon compilation of data. Destroy 10 full calendar years after due date (e.g., reports due March 15,1980 would be destroyed January 1, 1991).

4 ADP Tape. — PERMANENT. Transfer entire file to NARS and update annually as stipulated in prior agreements between NARS and EEOC.

(b) EEO-2 Apprenticeship Information Report. (Joint Labor-Management Apprenticeship Committees.) This report includes information regarding Apprenticeship Program work force as required by Title VII. The data includes number of employees, race, sex, job occupation, number of persons included in each category.

1 Record Copy — Transfer to Federal Records Center upon compilation of data. Destroy 10 full calendar years after due date (e.g., reports due March 15,1980 would be destroyed January 1, 1991).

2 ADP Tape. — PERMANENT. Transfer entire file to NARS and update annually as stipulated in prior agreements between NARS and the EEOC.

Item No.	Description of Records	Authorized Disposition
12.(Cont'd)	(c) EEO-2-E, Apprenticeship Information Report. (Employer-Operated Apprenticeship Programs.) This report includes information regarding Apprenticeship Program work force as required by Title VII. The data includes number of employees, race, sex, job occupation, number of persons included in each category.	
	1 Record Copy.	Transfer to Federal Records Center upon compilation of data. Destroy 10 calendar years after due date (e.g., reports due March 15, 1980 would be destroyed January 1, 1991).
	2 ADP Tape.	PERMANENT. Transfer entire file to NARS and update annually as stipulated in prior agreements between NARS and the EEOC.
	(d) EEO-3, Local Union Report. This report includes information required by Title VII. The data includes number of employees, race, sex, job occupation, number of persons included in each category.	
	1 Record Copy.	Transfer to Federal Records Center upon compilation of data. Destroy 10 full calendar years after due date (e.g., reports due March 15, 1980 would be destroyed January 1, 1991).
12.(Cont'd)	2 ADP Tape.	PERMANENT. Transfer entire file to NARS and update annually as stipulated in prior agreements between NARS and the EEOC.
	(e) EEO-4, State and Local Government Information Report. This report includes information regarding State and Local Government work force as required by Title VII. The data includes number of employees, race, sex, job occupation, number of persons included in each category.	
	1 Hard Copy.	Microfilm upon receipt of report. Destroy hard copy of report when microfilm is verified.
	2 Microfilm.	Destroy when 10 years old or when no longer needed for reference, whichever is later.

		3 Non-microfilmed Reports.	Transfer to Federal Records Center upon compilation of data. Destroy 10 full calendar years after due date (e.g., reports due March 15, 1980 would be destroyed January 1, 1991).
		4 ADP Tape.	PERMANENT. Transfer entire file to NARS and update annually as stipulated in prior agreements between NARS and the EEOC.
12.(Cont'd)	(f)	EEO-5, Elementary and Secondary Staff Information Report. This report includes information regarding Elementary-Secondary staff work force as required by Title VII. The data includes number of employees, race, sex, job occupation, number of persons included in each category.	
		1 Hard Copy.	Microfilm upon receipt of report. Destroy hard copy of report when microfilm is verified.
		2 Microfilm.	Destroy when 10 years old or when no longer needed for reference, whichever is later.
		3 Non-microfilmed Reports.	Transfer to Federal Records Center upon compilation of data. Destroy 10 full calendar years after due date (e.g., reports due March 15, 1980 would be destroyed January 1, 1991).
		4 ADP Tape.	PERMANENT. Transfer entire file to NARS and update annually as stipulated in prior agreements between NARS and the EEOC.
12. (Cont'd)	(g)	EEO-6, Higher Education Staff Information Report. This report includes information required by Title VII on public and private institutions of higher education, and is compiled biennially. The EEO-6 requires reporting of employment data by race/ethnic categories, sex, length of contract, occupational categories and annual salary.	
		1 Hard Copy.	Microfilm upon receipt of report. Destroy hard copy of report when microfilm is verified.

	2 Microfilm.	Destroy when 10 years old or when no longer needed for reference, whichever is later.
	3 Non-microfilmed Reports.	Transfer to Federal Records Center upon compilation of data. Destroy 10 full calendar years after due date (e.g., reports due March 15, 1980 would be destroyed January 1, 1991.)
	4 ADP Tape.	PERMANENT. Transfer entire file to NARS every two years or when no longer needed for current operations, whichever is sooner. Update as stipulated in prior agreement between NARS and the EEOC.
12.(Cont'd)	(2) Data Sharing Agreements. (Arranged alphabetically by Agency.) Documents regarding agreements between EEOC and Federal, State and local agencies to share statistical data on employment practices and trends, in accordance with data confidentiality requirements.	
	(a) Record Copy. (Program Office)	Break files annually. Transfer to Federal Records Center two(2) years following expiration of agreement. Destroy ten (10) years following expiration of agreement.
	(b) All Other Copies.	Destroy on site when no longer needed for reference.
	(3) Research Project File. (Arranged alphabetically by subject.) Reflects a complete history of each project from initiation through research and development to completion. Includes (when created by EEOC personnel or received from contractors) procurement files, consisting of a copy of each contract or agreement for research services with related modifications, changes or addendums; initial and final proposal; project authorization documents; technical characteristics; progress reports; notice of completion or cancellation; and correspondence influencing the course of action taken on a project. For example, designs and specifications for EEO reports for survey contracts, and the monitoring of the projects for adherence to the terms of the contract.	
12.(Cont'd)	(a) Record Copy. (Program Office)	Transfer to inactive file upon completion or termination of project. Destroy on site when five (5) years old.

(b) All Other Copies. — Destroy on site when no longer needed for reference.

C. INFORMATION (ADP) SYSTEMS. Documents, including machine-readable data, reflecting the data automation activity within the Commission. (Refer to GRS 20 for machine-readable files not specifically identified in this schedule.)

(1) Planning Documents. Descriptive documents required to initiate, develop, operate, and maintain specific applications. — Review files annually. Destroy upon completion of project or when data has served all useful purposes for which it was created.

(2) Processing Files. Work files, test data, input/output document flow data, publications, and similar operational records. For example, computer tapes and printouts of investigative material used as evidence in court proceedings or validation studies. — Dispose of when no longer needed, or when raw data is satisfactorily processed into final or reduced data.

(3) Master Files. Specific data file in a system at a given time.

(a) Housekeeping System File. In-house data such as fiscal accountability, supply management, and payroll administration.

12.(Cont'd)

1 Financial Management System. EEOC's financial data. — Dispose of in accordance with Budget and Finance Records (see Item 3), or when the material no longer serves the purpose for which it was created.

2 All Other Systems. — Dispose of in accordance with the instruction applicable to the hard copy, or when the material no longer serves the purposes for which it was created.

(b) Statistical Master File. Machine-readable media containing data used to prepare reports covering a limited period of time; recurring periodic surveys and censuses.

1 Complaint Statistical Reporting System(CSRS). Machine-readable records containing information on all persons filing complaints with EEOC which allege discrimination based on race, color, religion, sex, or national origin in hiring, firing, wages, training, apprenticeship, and all other conditions of employment. The system includes the names and addresses of charging parties and respondents, descriptions of complaints, locations of complaints, administra-

Item No.	Description of Records	Authorized Disposition
	tive or legal actions taken regarding complaints, and the resolutions of the complaints. Used as a reporting system by which EEOC district offices report discrimination complaints to Headquarters Office and provides the mechanism through which administrative control and statistics are maintained.	
	a Edit Cycle. Reformatted data (including computer print-out reports).	Dispose of every three months.
	b Master Tapes.	PERMANENT. Offer to National Archives annually.
	c Security Back-up Files. Mini-masters of charge data maintained in EEOC tape library.	Dispose of after (2) years.
13.	COMMISSION RECORDS. Material pertaining to the preparation of decisions for consideration by the Commission; Commission meeting agendas and minutes; incoming and outgoing correspondence of the Commission head and Commissioners; and material submitted by subordinate staff for the attention of the Commission head or Commissioners.	
	A. GENERAL CORRESPONDENCE. (Arranged alphabetically by subject) Consist of incoming documents addressed to the Chairman or Commissioners and copies of replies thereto, but prepared and maintained by subordinate organizational components; and material not falling into a specific category and which is considered ephemeral to office requirements.	
	All Copies.	Break files annually. Destroy upon termination of appointment or when no longer needed for reference, whichever occurs first.
	B. CHAIRMAN'S CHRONOLOGICAL FILES. Copies of all outgoing communications signed by the Chairman of the Commission, and maintained in the Chairman's Office.	PERMANENT. Break files annually. Transfer to Federal Records Center when five(5) years old. Offer to NARS when *latest records are* ten (10) years old, in *ten (10)* year blocks.
13. (Cont'd)	C. COMMISSION MEETINGS. Files documenting the open and closed Commission meetings, which deal with the policy-making processes of the Commission as provided by 29 CFR 1612.	
	(1) Agenda. (Arranged chronologically by year) Summary of topics to be discussed at the weekly Commission Meetings. Agenda includes a statement of whether a meeting is open or closed to the public.	
	(2) Meeting Minutes. (Arranged chronologically by year) Complete summary of the subjects discussed at the weekly Commission Meetings, including the actions taken, the reason therefore, views expressed on any item, and any roll call vote.	

(3) Tape Recordings. (Arranged chronologically by year) Original tape recordings of Commission meetings (open and closed) as provided by 29 CFR 1612.

(a) Record Copy. (Program Office) — PERMANENT. Break files annually. Offer to NARS five (5) years after proceedings arising from a meeting are completed or when no longer needed for administrative use, whichever occurs first. (Closed meeting files are restricted from public inspection as provided by 29 CFR 1612.4)

(b) All Other Copies, including related background material. — Destroy when one (1) year old, or when no longer needed for reference.

13. D. (Cont'd) COMMISSION DECISIONS FILES. (Arranged chronologically by year and thereunder alphabetically by name) Official documents indicating the Commissioners' approval of decisions rendered on discrimination complaints pursuant to Title VII. Files include the decision documents and the decision cover sheets.

(1) Precedent Decisions. Official record copy of all significant decisions and positions taken by the Chairman and Commission.

(a) Record Copy. (Program Office) — PERMANENT. Break files annually. Transfer to Federal Records Center five(5) years from date of decision. Offer to NARS fifteen (15) years from date of decision *of latest records* in *ten (10)* year blocks.

(b) All Other Copies, including related background material.

1 Official Charge File Copy. — Destroy with charge files under appropriate disposition authority described in this schedule.

2 Reference Copies. — Destroy when no longer needed for reference.

(2) Non-Precedent Decisions. Files include routine letters of determinations, conciliation agreements, and predetermination settlements.

(a) Record Copy. (Program Office) — Break files annually. Destroy five(5) years from date of decision.

Item No.	Description of Records	Authorized Disposition
13.(Cont'd)	(b) All Other Copies.	
	1 Official Charge File Copy.	Destroy with charge files under appropriate disposition authority described in this schedule.
	2 Reference Copies.	Destroy when no longer needed for reference.
14.	COMPLIANCE RECORDS. Covers records created in the Commission to carry out its mission to establish and implement policy on eliminating job discrimination, and to enforce the policy through operating activities as required by *the Age Discrimination in Employment Act (ADEA), the Equal Pay Act (EPA), and* Title VII of the Civil Rights Act of 1964, as amended, *(Title VII).*	
	A. PLANS AND POLICY. (Arranged alphabetically by subject.) Documents relating to the establishment of policy, direction, guidance and assistance in the compliance process. Records include guidelines enunciating *ADEA, EPA, and/or* Title VII related policy, policy interpretations of the equal employment opportunity laws and regulations, Commission rules and regulations published in the Federal Register, and other related matters to translate Commission policy.	
	(1) Record Copy. (Program Office)	PERMANENT. Break files annually. Transfer to the Federal Records Center when five (5) years old. Offer to NARS fifteen (15) years after file break *of latest records,* in *ten (10)* year blocks.
14. A. (Cont'd)	(2) All Other Copies.	Destroy on site when two(2) years old or when no longer needed for reference, whichever is earlier.
	B. FIELD OPERATIONS REVIEW. (Arranged alphabetically by subject) Material generated through the monitoring of field management systems or plans to provide timely remedy or resolution of charges; development and refinement of charge processing procedures; and, evaluation of field offices and FEP agencies to ensure quality implementation of the charge processing system.	
	(1) Record Copy. (Program Office)	Break files annually. Destroy on site three (3) years after file break.
	(2) All Other Copies.	Destroy on site when one(1) year old or when no longer needed for reference.

C. CHARGES. Records pertaining to the compliance process which include receipt of complaints of job discrimination; investigation; conciliation with the employer, union, employment agency or labor management apprenticeship programs; compliance review; Commissioner charges; and general material pertaining to discrimination under ADEA, EPA, and/or Title VII. Record copies of documents, including forms and ADP data, created during the compliance process of a discrimination complaint are maintained in the official charge file. (Schedule applies to Headquarters and Field Offices.) *(Where a Freedom of Information or Privacy Act request is received, the record, consisting of the request and charge file, should be filed separately and disposed of in accordance with General Records Schedule 14, Items 16b, 17b, 25b, and 26 a-c, Part B of this Order.)*

(1) General Correspondence. (File alphabetically by subject.) General material (including inquiries) pertaining to discrimination, but not related to a specific case or charge.

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(Reserved)

14.(Cont'd) All Copies. — Destroy when six (6) months old.

(2) Headquarters Subject File. Background papers, copies of charges and other supporting documents relating to the compliance process.

All Copies. — Break file annually. Destroy when three (3) years old.

(3) Dismissals. (Arranged numerically) Documents relating to dismissals of charges for other than no cause. Files include charges dismissed for lack of jurisdiction; withdrawals; closures by issuance of Notice of Right to Sue upon request; failure to cooperate; failure to locate (including "administrative closure" where charging party not apprised of requirements to keep EEOC informed of address changes); and refusal to accept full relief.

(a) Transition Quarter(T.Q.) Case Files. Files retained based on the Hall vs. EEOC, N.D., Cal. suit. (Case dismissed on July 19, 1978.)

1 Files already sent to Federal Records Center. — Destroyed January 1, 1980.

2 T.Q. files still remaining in offices. — Treat as all other dismissal files.

(b) All Other Dismissal/Closure Files. — Destroy six (6) months following date of closure/ dismissal.

Item No.	Description of Records	Authorized Disposition
14. C.(Cont'd) (4)	Negotiated Settlements. All documents in the charge file.	
	(a) Concurrent ADEA/EPA/Title VII cases where monetary benefits are realized.	*Retire to Federal Records Center one (1) year after date of last action. Destroy two (2) years later.*
	(b) All other negotiated settlements, including cases where equal pay or age monetary benefits are not realized.	Destroy one (1) year after the expiration of the calendar year in which respondent submitted written notice of having satisfied each obligation contained in the contract, or date of signature of the contract, whichever occurs later.
(5)	Determination/Decision Files:	
	(a) *No Violation/* No Cause. (Arranged by year of closure and sequentially by charge number) All documents in the charge file.	
	1 Transition Quarter (T.Q.) Files. T.Q. project files during period 8/15/76 to 9/30/76. (Court case dismissed on July 19, 1978)	
	a T.Q. files already sent to Federal Records Center.	Destroy four years after last action date, which will be October 1, 1980.
	b T.Q. files still remaining in Commission offices.	Review and mingle with the appropriate category of determination/ decision files. Use the appropriate disposal authority for decision files as described in this item.
14. C. (Cont'd)	2 Files of Value. *No Violation/* No Cause files which are of value in the development of class action or pattern and practice for future cases.	Retire to the Federal Records Center one (1) year after last action. Destroy three (3) years later.
	3 All Other *No Violation/* No Cause Files. Files having no future value.	Destroy one (1) year after the date of the last action.
	(b) *Letter of Violation/*Cause. All documents in the charge file.	
	1 Landmark Cases. (Filed alphabetically by respondent/issue) Record copy of cases which state a principle of law and is so definite in its terms and so generally acquiesed in and act on that it has come to be recognized as the accepted rule on a given question, particularly where decision is made by a court of last resort construing a statute. (See Item 15B for criteria of landmark cases.)	PERMANENT. Transfer to nearest Federal Records Center two (2) years after final court action. Offer to National Archives ten (10) years after final court action, in *ten (10)* year blocks.

2 All Other "Letter of Violation/" Cause Files. (Arranged by year of closure and sequentially by charge number)

Retire to Federal Records Center one (1) year after the date of the last action, including action in the Federal Courts or the last compliance review (the final report submitted by the respondent after conciliation to indicate compliance). Destroy after three (3) additional years.

14.(Cont'd) (6) Charge Control Files. Documents used to show actions taken and to control charges.

(a) EEOC Form 40A, Charge Control Ledger. (File sequentially by charge number and by year.)

1 Paper Records.

Retain in Control Unit until one (1) year after closing. Then film closed cards. Destroy upon verification of film.

2 Filmed Records.

a Record Copy.

Retain in Control Unit.

b Duplicate Copy.

Transfer to Federal Records Center as a Vital Record. (GSA S.F. 135, Item (1) cite "Vital Record" as the disposal authority.)

(b) EEOC Form 40B (Flimsies), Charge Control Action Memo. (Arranged alphabetically by Respondent)

Destroy upon receipt of latest computer printout generated by the Complaint Statistical Reporting System (CSRS).

D. STATE AND LOCAL PROGRAMS. (Filed alphabetically by subject) Records pertaining to the cooperative relationships between EEOC and State and Local Fair Employment Practice Agencies (FEP), which include correspondence between EEOC and FEP agencies, applications for 706 Agency designations, memoranda of agreements, contracts, national (706 Agency) funding programs, and other related material generated between EEOC and State and Local Agencies.

14.(Cont'd) (2) Contract/Project File. (Arranged alphabetically by Agency) Documents regarding State and Local Agencies receiving or applying for EEOC funds to assist in the implementation of their programs to eliminate discrimination. Records consist of applications for 706 Agency designations, requests for proposals, correspondence (including memoranda of understanding) with the Fair Employment Agencies (706 Agencies), detailing their services and accomplishments, staffing and funding requirements; and other related material. (See Item 4A for procurement contract files.)

(a) Record Copy. (Program Office) — Transfer to Federal Records Center three (3) years after contract/project has been executed. Destroy after ten (10) calendar years.

(b) All Other Copies — Destroy when two (2) years old.

E. DISCRIMINATION TECHNIQUES RECORDS. (Arranged alphabetically by subject.) Documents generated in identifying and remedying discrimination in employment patterns/practices (systemic activities), which include records on the compilation of respondence policies and procedures; national standards for selecting subjects for systemic proceedings; statistical data used in analyzing employment practices of designated and/or potential respondenTs (707 cases); and other related material to eliminate discrimination features of employment systems. (This does not include files on the processing of charges, see Items 14C and 15.)

(1) Systemic Selection Standards File. (Arranged alphabetically by issue) Records generated in identifying and selecting potential subjects for systemic proceedings.

14.(Cont'd)

(a) Record Copy. (Program Office) — Break files annually. Retire to Federal Records Center when three (3) years old. Destroy when six (6) years old.

(b) All Other Copies. — Destroy when one (1) year old.

(2) Respondent Investigative Files. (Arranged alphabetically by Respondent) Documents assembled in the investigation of employment discrimination practices and are the evidence by which the Commission processes a charge.

(a) Record Copy. (Program Office) — Transfer to Federal Records Center one (1) year after final resolution of the case. Destroy five (5) years from date of transfer. (See Item 12C(2) for investigative material on ADP tapes).

(b) All Other Copies.

1 Official Charge/Case File Copy. Consolidation of charge file and headquarters systemic case file. — Use disposal authority for the appropriate category of charge files described in Items 14C or 15B.

2 Reference Copies. — Destroy when no longer needed for reference.

Item No.	Description of Records	Authorized Disposition
14. (Cont'd) F.	SPECIAL PROJECTS AND PROGRAMS. (Arranged alphabetically by subject.) Documents generated in formulating, implementing, and monitoring specialized enforcement programs to eliminate discrimination in the private sector. Files include special projects and programs which monitor the activities of and coordinate with external groups and specific constituencies, such as craft and industrial unions, bar associations, educational institutions and minority organizations; material pertaining to the encouragement and assistance to the private sector in effectively implementing affirmative action programs and policies; and related reporting activities.	
	(1) Record Copy. (Program Office)	Break files annually. Transfer to Federal Records Center when two(2) years old. Destroy when five(5) years old.
	(2) All Other Copies.	Destroy when one year old or when no longer needed for reference, whichever occurs first.
G.	GOVERNMENT EMPLOYMENT PROGRAMS. (Arranged alphabetically by subject.) Documents generated in planning, developing, and implementing programs which will facilitate actions by Federal, State and Local governments and educational institutions to bring their employment policies into compliance with "ADEA, EPA, Title VII," and the Rehabilitation Act, as amended. Files include EEO matters, affirmative action planning and programming in Federal, State and Local governments and public educational institutions, affirmative action planning for employment and placement of the handicapped and aged in the Federal Government, and related reporting activities.	
14. G.(Cont'd) (1)	EEO General Files. (Arranged alphabetically by subject.) General correspondence, plans, procedures and related records concerning all aspects of the equal employment opportunity programs of "ADEA, EPA," Title VII and Section 501 of the Rehabilitation Act, as amended.	
	(a) Record Copy. (Program Office)	Break files annually. Destroy when three(3) years old or when material is obsolete or superseded, whichever occurs first.
	(b) All Other Copies.	Destroy when no longer needed.
(2)	EEO Affirmative Action Plans(AAP) (Arranged geographically and by name of agency) Plans submitted by Federal, State and Local governments and public educational institutions, and correspondence relating to the Commission's review and approval of individual plans.	
	(a) Record Copy. (Program Office)	Break files annually. Transfer to Federal Records Center when (2) years old. Destroy when five (5) years old.

(b) All Other Copies. — Destroy when one (1) year old.

15. LEGAL AND LEGISLATIVE RECORDS. This schedule covers records consisting of litigation matters to which the Commission is a party or in which it is involved; legal opinions and interpretations; court rulings; claims; Congressional activities; and legislation proposed by or in the interest of the Commission.

A. LEGAL

(1) General Correspondence Files. (Arranged alphabetically by subject.) Correspondence, reports, forms, and other records relating to the administration and operation of legal activities but excluding specific files described elsewhere in this schedule. (See Items 10Z and 10F for FOI Records and Privacy Act Records.)

(a) Record Copy — Break files annually. Destroy when three(3) years old.

(b) All Other Copies. — Destroy in agency when no longer needed for reference.

(2) Opinions and Interpretations. (Arranged alphabetically by subject.)

(a) External Requests. One complete set of all opinions issued on laws, rules and regulations as they affect *the Age Discrimination in Employment Act (ADEA), the Equal Pay Act (EPA),* Title VII of the Civil Rights Act of 1964, as amended, (Title VII), *the Rehabilitation Act, as amended,* or the agency. File includes opinions on race, color, sex, national origin, religion, *and age.* It also includes supporting data, the original request for the opinion and any related materials.

15. (Cont'd)

1 Record Copy. (Program Office) — PERMANENT. Retire to Federal Records Center when two(2) years old. Offer to National Archives when *latest records are* ten(10) years old, in *ten (10)* year blocks.

2 All Other Copies. — Destroy when no longer needed for reference.

(b) Internal Requests. Requests to the General Counsel for opinions and interpretations from Commission offices on various administrative subjects (e.g., the Hatch Act, conflicts of interest or other internal legal matters.)

1 Record Copy. (Program Office) — Break files annually. Destroy when three (3) years old.

2 All Other Copies. — Destroy when one (1) year old or when no longer needed, whichever occurs first.

(3) Claims Case Files. (Arranged alphabetically) Claims case files consisting of reports, witness statements, decisions, and other records related to, by or against the government resulting from personal injury, property damage, tort claims, and accident claims, and other business transactions of the agency. Excluded are records pertaining to claims resulting in litigation, these are filed in the appropriate litigation files.

(a) Record Copy. (Program Office) — Break files annually. Destroy seven(7) years after final disposition of case.

15. (Cont'd) (b) All Other Copies. — Destroy when no longer needed for reference.

B. LITIGATION. Material pertaining to court litigation, which includes court rules, court dockets, briefs, orders, court decisions, *ADEA cases, EPA cases, cases under Sections 706 and 707 of Title VII,* state cases in discrimination litigation, and other legal court matters. (See Item 12C(2) for computer tapes and printouts of investigative material.)

(1) General Litigation Files. (Arranged alphabetically by issue/subject.) Litigation records initiated by or coordinated with other offices of the Commission in which the Office of the General Counsel has an interest. Includes consent decrees, motions, protecting orders, etc. (This file excludes material which becomes a part of the official charge/case file.)

(a) Record Copy. (Program Office) — Break files annually. Destroy when four(4) years old.

(b) All Other Copies — Destroy when no longer needed for reference.

(2) EEOC Defendant Case File. (Arranged alphabetically by name) Records of the litigation process in which EEOC is the defendant. Included are motions interrogatories, briefings, consent decrees, final orders of the court, and other related legal documents.

15. (Cont'd) (a) *Landmark Cases. Record copy of cases that are of continuing value for future processing. — PERMANENT. Retire to Federal Records Center two(2) years after final court action. Offer to the National Archives *when latest records are* ten (10) years after final court action, in *ten (10)* year blocks.

(b) All Other EEOC Defendant Case Files.

1 Record Copy. — Retire to Federal Records Center two (2) years after final court action. Destroy seven (7) years after final court action.

	2 All Other Copies.	Destroy on site when no longer needed for reference.
	(3) EEOC Plaintiff Case File. (Arranged alphabetically by name) Record of the Commission's litigation process against a defendant, including motions, interrogatories, briefings, consent decrees, final court orders, and other related legal documents.	
	(a) *Landmark Cases. Record copy of cases that are of continuing value.	PERMANENT. Retire to Federal Records Center one(1) year after entry of final order dismissing action. Offer to the National Archives five(5) years after final dismissing action *of latest records,* in *ten (10)* year blocks.
15. (Cont'd)	(b) Permanent Injunction. Where a permanent injunction is entered against a respondent.	Retire to Federal Records Center upon dismissal of case. Destroy ten (10) years after dismissal of case.
	(c) All Other EEOC Plaintiff Case Files.	
	1 Record Copy.	Retire to Federal Records Center one (1) year after entry of final order dismissing action. Destroy four (4) years after entry of final order dismissing action.
	2 All Other Copies.	Destroy on site when no longer needed for reference.

* Landmark cases are those based on the following criteria:

(1) Cases that result in precedential court decisions that significantly interpret legislation or regulations. Cases that result in legal opinion establishing precedent, policies and procedures regarding laws, regulations, directives, decisions and/or legislation;

(2) Cases of value that are heard by appellate or higher court;

(3) Cases that are determined valuable for investigative or litigative procedures;

(4) Cases that gain national attention because of Congressional or public interest;

(5) Cases of major economic impact; *or*

(6) Cases that show possible conflicts of interest.

* Designations of landmark cases are made by EEOC's Office of the General Counsel.*

Item No.		Description of Records	Authorized Disposition
15. (Cont'd)	C.	LEGISLATIVE FILES. (Arranged chronologically by sessions of Congress) History file of Congressional bills and hearings, Committee reports, Public Laws, Executive Orders, and Memoranda pertaining to the Commission's statute and related statutes; testimonies on current legislation; and other related documents. (See Item 15A(2) for opinions issued on laws.)	
		(1) Record Copy. (Program Office)	Break files every two (2) years. Transfer to the Federal Records Center when four (4) years old. Destroy in ten (10) years.
		(2) All Other Copies of legislative documents and related processed reference material.	Destroy in agency when no longer needed for reference, or upon adjournment of related session of Congress.
	D.	CONGRESSIONAL/FEDERAL AGENCY RECORDS. Material involving all Congressional matters, which include Congressional developments, inquiries, testimonies, and committees which affect the Commission's responsibilities under *ADEA, EPA, and/or* Title VII; and Government agency inquiries relating to the operations of the Commission.	
		(1) Congressional Inquiries. (Arranged alphabetically by name of Congressional member) Correspondence, memoranda, or other material received from the Congress concerning status of constituent complaints; requests for support material for legislation; and general inquiries about the Commission.	
		— — — — — —	
16. (Cont'd)		(3) Duplicate copy of official discrimination complaint file. File supplied by originating agency containing complaints with related correspondence and other material as described in 29 CFR 1613.222.	Destroy on site when no longer needed for reference.
	B.	CONTROL CARDS AND LOGS. Control Cards, logs, and other cross reference indices to files described in Item 16 above.	Destroy in agency when no longer needed for administrative purposes.
	C.	"UNSANITIZED" DECISIONS. "Unsanitized" copies of all appellate decisions rendered by the EEOC.	Destroy in agency when no longer needed for administrative purposes.
	D.	"SANITIZED" DECISIONS. "Sanitized" copy of all appellate decisions rendered by the EEOC and decisions by the MSPB, which determine matters of discrimination prohibited by the laws administered by EEOC.	Destroy in agency when no longer needed for administrative purposes.

Attachment B

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

OCT 27 1987

MEMORANDUM

TO : District, Area, and Local Directors

FROM : James H. Troy, Director
Office of Program Operations

SUBJECT : Revisions to EEOC Order 201, Disposition of Records

During the District Directors Conference in Dallas, I informed you of the changes in our recordkeeping requirements. Attached is Standard Form 115 containing the changes approved by the National Archives Record Center (NARS). They are to be effected immediately.

This document should be inserted as part of EEOC Order 201 at Item 14. The Order is undergoing some further revisions and should be reprinted and issued in the near future.

cc: Pamela Talkin, Chief of Staff
John Schmalzer
Jacquelyn Shelton

Agency Copy

REQUEST FOR RECORDS DISPOSITION AUTHORITY
(See Instructions on reverse)

LEAVE BLANK

JOB NO. NI-403-87-1

GENERAL SERVICES ADMINISTRATION
NATIONAL ARCHIVES AND RECORDS SERVICE, WASHINGTON, DC 20408

DATE RECEIVED 7-17-87

1. FROM (Agency or establishment)
Equal Employment Opportunity Commission

NOTIFICATION TO AGENCY

2. MAJOR SUBDIVISION
Office of Program Operations

In accordance with the provisions of 44 U.S.C. 3303a the disposal request, including amendments, is approved except for items that may be marked "disposition not approved" or "withdrawn" in column 10. If no records are proposed for disposal, the signature of the Archivist is not required.

3. MINOR SUBDIVISION
Management Support Branch

4. NAME OF PERSON WITH WHOM TO CONFER
Margaret P. Elser

5. TELEPHONE EXT.
634-1948

DATE
8-26-87

ARCHIVIST OF THE UNITED STATES
Frank G. Burke

6. CERTIFICATE OF AGENCY REPRESENTATIVE

I hereby certify that I am authorized to act for this agency in matters pertaining to the disposal of the agency's records; that the records proposed for disposal in this Request of 2 page(s) are not now needed for the business of this agency or will not be needed after the retention periods specified; and that written concurrence from the General Accounting Office, if required under the provisions of Title 8 of the GAO Manual for Guidance of Federal Agencies, is attached. (See Justification Attached).

A. GAO concurrence: ☐ is attached; or ☒ is unnecessary.

8. DATE	C. SIGNATURE OF AGENCY REPRESENTATIVE	D. TITLE
7/3/87	Jim Betts	Jim Betts, Chief Management Support Branch

7. ITEM NO.	8. DESCRIPTION OF ITEM (With Inclusive Dates or Retention Periods)	9. GRS OR SUPERSEDED JOB CITATION	10. ACTION TAKEN (NARS USE ONLY)
	Revision of EEOC Order 201/Appendix A Disposition of Records - November 1981.	EEOC Order 201	
1.	14. COMPLIANCE RECORDS. Covers records created in the Commission to carry out its mission to establish and implement policy on eliminating job discrimination, and the enforce the policy through operating activities as required by *the Age Discrimination in Employment Act (ADEA), the Equal Pay Act (*EPA), and* Title VII of the Civil Rights Act of 1964, as amended, *(Title VII).*		

14C(3)(b) Lack of Jurisdiction - Destroy one(1) year following date of closure/dismissal.

14C(3)(b) become 14C(3)(c).

14C(4) Negotiated Settlements. All documents in the charge file.

Hitzac

115-109 NSN 7540-00-634-4064 STANDARD FORM 115 (REV. 8-8) Prescribed by GSA

REQUEST FOR RECORDS DISPOSITION AUTHORITY — CONTINUATION

JOB NO. PAGE OF

7. ITEM NO.	8. DESCRIPTION OF ITEM (With Inclusive Dates or Retention Periods)	9. GRS OR SUPERSEDED JOB CITATION	10. ACTION TAKEN (NARS USE ONLY)
	(a) Concurrent ADEA/EPA/Title VII cases where monetary benefits are realized. Destroy three (3) years after the date of last action. (b) All other negotiated settlement, including cases where equal pay or age monetary benefits are not realized. Destroy two (2) years after the expiration of the calendar year in which respondent submitted written notice of having satisfied each obligation contained in the contract, or date of signature of the contract, whichever occurs later. 14C(5)(a)3 All other No Violation/No Cause Files Destroy two (2) years after the date of last action. Add: 14C(6) Relevant Documents/Evidence. Documents and evidence in closed charge files which may be revelent to open charge files against same Respondent. Should be preserved and incorporated in the open charge file ~~referencing~~ the original file. Dispose in accordance with the authorized disposition for the new charge file. → noting in the open case		

115-104 Four copies, including original, to be submitted to the National Archives and Records Service. STANDARD FORM 115-A (REV. 10-62) Prescribed by GSA FPMR (41 CFR) 101-11.4

Attachment C

ADCAA MAILOUT SUMMARY SHEET TOTALS

MAILOUT	PREVIOUSLY REPORTED	FINAL TALLY	RELEVANT INFORMATION
1. Headquarters CDS & CERS	3,783	3,802	*Included all records which had missing information and a determination could not be made as to the strict applicability of the law.
Determinations Review Program	285	285	
FEPA's included in HTQ data base	980	980	
Office of General Counsel	172	179	
	5,220	5,246	
2. Field	2,326	2,924	*Previously reported figure did not include charges from all field offices.
			*When we combined the Headquarters and Field mailing lists 157 duplicates were identified and are included in this total.
3. FEPA's	Not reported	2,306	*There is some potential for overlap with both the FEPA's and headquarters mailout. However, since the charge numbers used by FEPA's are unique a merge is not possible.
TOTALS	7,546	10,476	

GAO

United States
General Accounting Office
Washington, D.C. 20548

Human Resources Division

November 22, 1988

Mr. James Michie
Chief Investigator
Special Committee on Aging
United States Senate

Dear Mr. Michie:

As you requested, we are providing information on charges filed under the Age Discrimination in Employment Act which was collected as part of our study of the Equal Employment Opportunity Commission's (EEOC) and fair employment practices agencies' (FEPA) charge investigation practices (GAO/HRD 89-11). As we discussed with you, our samples were not stratified to focus on any particular type of charge, but instead focus on the total number of charges closed by each of the 11 EEOC and state FEPA offices we reviewed with no-cause determinations from January through March 1987. Our samples included charges filed under title VII of the Civil Rights Act, the Age Discrimination in Employment Act (ADEA), and the Equal Pay Act. Some of the charges filed alleged violations of both title VII and the ADEA.

The enclosure to this letter was drawn from our report and shows the overall results of our review of charges closed with no-cause determinations from January through March 1987. You can make the following statement concerning this table:

"The data in this table show the findings of a review by the U.S. General Accounting Office of EEOC and state agency investigations of employment discrimination charges. These findings apply to charges closed in the offices which were filed under the ADEA, as well as charges filed under title VII of the Civil Rights Act, and the Equal Pay Act. Some of the charges filed alleged violations of both title VII and ADEA. The charges included only those given no-cause determinations from January through March 1987." We believe that this is the strongest statement you can make about our study findings with respect to ADEA charges.

The following table summarizes the number of age-related discrimination charges that were in our sample and the number found to be not fully investigated.

Results of GAO's Review of Age-related Charges
Closed With No-cause Determinations
January through March 1987

	Number sampled		Number not fully investigated	
	ADEA only	Title VII/ ADEA	ADEA only	Title VII/ ADEA
EEOC District Office				
Atlanta	4	8	3	7
Dallas	14	5	8	1
Detroit	4	3	2	2
Memphis	7	6	6	6
New York	26	9	15	3
Philadelphia	25	8	14	1
State FEPA				
Georgia	4	3	2	2
Michigan	3	5	2	4
New York	5	7	4	4
Northern California	0	3	-	1
Tennessee	10	1	5	0

Since the number of age charges that we reviewed during the course of our work was extremely small, the information on those that we found to be not fully investigated may not be representative of the overall manner in which age charges have been investigated. We believe that any conclusions to be made on the manner in which employment discrimination charges have been investigated by these offices should be made on the basis of our overall sample design. As stated earlier, specific information on the manner in which age-related charges were being investigated was not the objective of our study and we suggest that information relating specifically to age charges be used with caution and include the following statement:

"The data relating to age charges were collected as part of an overall review by the U.S. General Accounting Office of the manner in which all types of employment discrimination charges were being investigated. The charge universes from which samples were drawn were not stratified to focus specifically on charges filed under the Age Discrimination in Employment Act. Thus, the limited information that has been developed relating to the investigation of age-related charges should not be considered to be representative of the overall manner in which such charges have been investigated."

If you have any questions about this information, please call me on 275-1655.

Sincerely yours,

Linda Morra
Associate Director

Enclosure

Enclosure

Enclosure

Results of GAO's Review of
Charges Closed With No-Cause Determinations[a]
January through March 1987

	Charges closed with no-cause determinations[a]	Charges reviewed	Percent not fully investigated	Sampling error (percent)[a]
EEOC District Office				
Detroit	116	44	82	9
Atlanta	346	92	68	8
Memphis	117	73	64	7
Dallas	250	74	47	10
New York	126	72	44	8
Philadelphia	141	81	41	7
State FEPA				
New York	582	45	87	9
Michigan	231	72	65	9
Tennessee	91	55	53	8
Northern California	226	105	52	7
Georgia	30	30	40	0

[a] At a confidence level of 95 percent.

Source: EEOC and State Agencies Did Not Fully Investigate Discrimination Charges (Oct. 11, 1988) (GAO/HRD 89-11)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

November 29, 1988

The Honorable John Melcher
Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Because of your interest in the Equal Employment Opportunity Commission's enforcement of the Age Discrimination in Employment Act, I am enclosing a memo reporting EEOC's preliminary Fiscal Year 1988 litigation statistics.

In Fiscal 1988, EEOC matched its FY 1986 record breaking litigation enforcement efforts by filing 118 ADEA lawsuits. In addition, EEOC filed 25 ADEA subpoena enforcement actions during FY 1988.

EEOC is proud of its vigorous enforcement of the ADEA and other laws against employment discrimination.

Please let me know if you have any questions.

Sincerely,

Deborah J. Graham
Director of Communications
and Legislative Affairs

Enclosure

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Office of
General Counsel

NOV 23 [illegible]

MEMORANDUM

TO : Charles A. Shanor
General Counsel

THRU : Philip B. Sklover
Associate General Counsel

FROM : Paul D. Brenner
Attorney (ADEA)

RE : Age Discrimination in Employment Act
Lawsuits Filed by the EEOC in FY 1988

During Fiscal Year 1988 (October 1, 1987 - September 30, 1988), the U.S. Equal Employment Opportunity Commission (EEOC) filed 118 new lawsuits on the merits of claims under the Age Discrimination in Employment Act of 1967 (ADEA). Thirteen of these new ADEA lawsuits also raised concurrent claims under Title VII of the Civil Rights Act of 1964, including 6 counts of sex discrimination, 3 of race discrimination, 3 of national origin discrimination, and one of both race and national origin discrimination.

The 118 new lawsuits filed in FY 1988 equals the largest number of substantive ADEA suits filed by the Federal Government in any one-year period since the ADEA was enacted. The FY 1988 filings also represent an increase of almost 50 percent above the number of such suits filed in Fiscal Year 1987. (In FY 1987, Congress enacted an ADEA amendment which, by temporarily permitting age limitations on the hiring and retirement law enforcement officers and firefighters, unexpectedly removed a major source of litigation.)

FISCAL YEAR	68-71	1972	1973	1974	1975	1976	1977	1978	1979
Labor Dept.	58	32	46	46	48	30	47	86	38
FISCAL YEAR	1980	1981	1982	1983	1984	1985	1986	1987	1988
E.E.O.C.	47	89	28	33	67	96	118	80	118

Attached are a summary of complaint data and allegations in the 118 substantive ADEA lawsuits, as well as a list of the 25 ADEA subpoena enforcement actions, filed by the EEOC during Fiscal Year 1988.

RECEIVED
NOV 23 1988
Office of Communications

Attachments

A. Copeland Enterprises, Inc. (ADEA-class)
S.D. TX, No. H-88-2190, filed June 24, 1988, Houston D.O.
Pattern-or-practice of failing to hire qualified applicants over age 40 for employment as management trainees in fast-food restaurants.

Alcan Rolled Products Co. (ADEA-class)
N.D. WV, No. 88-0133-C, filed Sep. 29, 1988, Philadelphia D.O.
Early retirement incentive plan resulted in greater periodic pension benefits for similar retiring employes ages 55-64 than over age 65.

Altruk Freight Systems, Inc. (ADEA-individual)
M.D. FL, No. 88-761-13C, filed May 31, 1988, Miami D.O.
Refusal to recall a 42-year-old "keypunch operator," because she had filed an ADEA charge concerning her earlier layoff.

American Can Co. (ADEA-class)
E.D. PA, No. 87-6445, filed Oct. 9, 1987, Philadelphia D.O.
Special separation policy provided 2 years of "augmented service credit" to employees ages 50-54, but not to those age 55 or older.

American Optical Corp. (ADEA-class)
D. MA, No. 88-0111, filed Sep. 29, 1988, New York D.O.
Nine sales representatives averaging age 53 discharged in workforce reduction, but soon replaced by new hires averaging age 34.

American Telephone & Telegraph Co. (ADEA-class)
D. NJ, No. 88-1024, filed Feb. 29, 1988, Philadelphia D.O.
Voluntary termination pay plan restricted eligibility to employees under age 65 and paid only reduced benefits to employees ages 61-64.

AMF, Inc. (ADEA-class)
E.D. NY, No. 88-1050C, filed Sep. 29, 1988, New York D.O.
In workforce reduction, 85 percent of "servicemen" age 40 or older were terminated (55), but only 14 percent of those under age 40.

Antelope County Farmers Cooperative (ADEA-class)
D. ND, No. 88-C-182, filed Mar. 2, 1988, Denver D.O.
Three employees, ages 57-63, terminated during a reduction-in-force, because they were "the oldest and could use their pensions."

Arcadian Corporation (ADEA-individual)
M.D. LA, No. 88-203B, filed Mar. 4, 1988, New Orleans D.O.
Maintenance supervisor, age 50, terminated instead of a 34-year-old colleague who had less experience and lower performance ratings.

Barrett, Haentjens & Co. (ADEA-class)
N.D. PA, No. 87-1532, filed Nov. 2, 1987, Philadelphia D.O.
Five managers aged 59-64 laid off for the stated reason that, while they could retire, younger managers were not eligible to retire.

BBC Brown Boveri, Inc.; White v. (ADEA-class)
D. SC, No. 3:88-906-16H, intervened July 28, 1988, Charlotte D.O.
Anecdotal and statistical evidence showing age discrimination in the termination of 8 management employees, ages 44-62.

Bearing Engineering Co. (ADEA/Title VII-individual)
N.D. CA, No. C-88-3641, filed Sep. 15, 1988, San Francisco D.O.
Highly experienced 56-year-old woman denied promotion to "Credit Manager" position in favor of a less qualified 26-year-old male.

Bethlehem Steel Corp. (ADEA-class)
E.D. PA, No. 88-0175, filed Jan. 11, 1988, Philadelphia D.O.
Challenge to a practice of denying severance benefits to permanently laid-off employees who are eligible to receive immediate pensions.

Bethlehem Steel Corp. (ADEA-individual)
E.D. PA, No. 88-4428, filed June 3, 1988, Philadelphia D.O.
Customer Service Representative, age 50, laid off instead of a much less senior, 38-year-old colleague who was not better qualified.

Big Ben Steel, Inc. (ADEA-individual)
W.D. PA, No. 88-5107, filed Aug. 30, 1988, Philadelphia D.O.
Refusal to hire a well qualified, 58-year-old applicant as a welder, for overt age discriminatory reasons.

Bourbonnais Board of Education (ADEA-individual)
N.D. IL, No. 88-C-2380, filed Mar. 22, 1988, Chicago D.O.
Challenge to a policy of discontinuing tenured status ("contractual continued service") for teachers at age 70.

Brookwood Cafe, Inc. (ADEA-individual)
N.D. GA, No. 1:88-CIV-433, filed Mar. 2, 1988, Atlanta D.O.
Experienced 48-year-old applicant denied employment as a waitress in a restaurant, on the stated ground that she was "too old."

Burke Broadcasting Co. of Cheyenne; Adsit v. (ADEA-class)
D. WY, No. C88-079B, intervened June 17, 1988, Denver D.O.
Four employees, ages 54-65, fired in order to "get rid of the old birds" and create a new "young and fun" image at a radio station.

Burlington Northern Railroad (ADEA-individual)
D. MN, No. 3-88-260, filed Apr. 25, 1988, Milwaukee D.O.
Employee discharged in retaliation for providing non-confidential information to a former employee who had filed an ADEA charge.

Business Card, Inc. (ADEA-individual)
E.D. TN, No. 4-88-92, filed Sep. 29, 1988, Memphis D.O.
Shipping employee, age 64, selected for layoff on the ground that she had informally expressed an intention of retiring at age 65.

Cabot Corporation (ADEA-individual)
E.D. PA, No. 87-8359, filed Dec. 23, 1987, Philadelphia D.O.
Senior "Sales/Service Specialists" aged 55 and 61 terminated, while colleagues aged 25 and 34 were transferred to another location.

Campbell Soup (Texas), Inc. (ADEA-individual)
E.D. TX, No. P-88-54-CA, filed Aug. 2, 1988, Dallas D.O.
Inexperienced 24-year-old Registered Nurse hired as an "Industrial Nurse" in preference to 8 more qualified RN applicants over age 40.

Catfish Cabin, Inc. (ADEA/Title VII-class)
N.D. AL, No. CV-88-P-0169, filed Feb. 1, 1988, Birmingham D.O.
Harassment and ultimate discharge of a 49-year-old waitress, because of her age and sex.

Certainteed Corp. (ADEA-individual)
E.D. PA, No. 88-7529, filed Sep. 29, 1988, Philadelphia D.O.
Territory Manager, age 60, selected for layoff rather than a much less senior colleague, age 32, whose sales record was not better.

Chartiers Township (ADEA-individual)
W.D. PA, No. 88-2193, filed Sep. 30, 1988, Philadelphia D.O.
Part-time employee, age 62, discharged in retaliation for filing an age discrimination charge concerning the denial of a full-time job.

Children's Hospital of St. Louis (ADEA-individual)
E.D. MO, No. 88-1741C(6), filed Sep. 6, 1988, St. Louis D.O.
Administrative employee, age 57, constructively discharged when the employer coerced her to elect a special early retirment option.

City of Clearwater (ADEA-class)
M.D. FL, No. 88-1154-CIV-T17A, filed July 29, 1988, Miami D.O.
Refusal to allow new employees age 45 or older to participate in a pension plan, and/or failure to incur equal pension costs for them.

City of Detroit Police Department (ADEA-class)
E.D. MI, No. 88-CV-72951-DT, filed July 19, 1988, Detroit D.O.
Challenge to a policy, prior to effective date of ADEA Section 4(j), of refusing to consider police officer applicants age 35 or older.

City of Mountlake Terrace (ADEA-class)
W.D. WA, No. C88-672, filed May 26, 1988, Seattle D.O.
Failure to hire any applicants over age 40 for manual labor jobs, including a 53-year-old applicant for a public works position.

Commonwealth of Massachusetts (ADEA-class)
D. MA, No. 87-3015-K, filed Dec. 18, 1987, New York D.O.
Challenge to a state law which requires that all appointed judges be mandatorily retired at age 70.

Communications Packaging Corp.; Mills v. (ADEA-individual)
D. CO, No. 88-A-629, intervened Sep. 2, 1988, Denver D.O.
Administrative assistant, age 52, terminated for pretextual reasons and replaced by a newly hired 23-year-old who was "better looking."

Concordia Electric Cooperative, Inc. (ADEA-individual)
W.D. LA, No. 88-2497, filed Sep. 30, 198, New Orleans D.O.
A Manager, age 72, terminated after he ignored the General Manager's "advice" that he should "step down and give the young men a chance."

Consolidated Rail Corp. (ADEA-individual)
N.D. CA, No. C-88-3818, filed Sep. 30, 1988, San Francisco D.O.
Administrative Assistant discharged after employer discovered that she was assisting her former supervisor in a private ADEA lawsuit.

Consulate General of Belgium (ADEA-individual)
N.D. IL, No. 88-C-6536, filed Aug. 11, 1988, Chicago D.O.
Threatened age 65 mandatory retirement of a U.S. citizen employed as a "commercial attache" having purely sales representative functions.

Cornbelt Meats, Inc. (ADEA-class)
D. MN, No. 4-87-956, filed Nov. 3, 1987, Milwaukee D.O.
Patterns of terminating foremen over age 50 during a reduction-in-force and of later refusing to rehire those laid-off older foremen.

Daiwa Golf Co. (ADEA-individual)
N.D. IL, No. 87-C-10718, filed Dec. 21, 1987, Milwaukee D.O.
Sales representative, age 54, discharged for the stated reason that a younger person was wanted for the job.

Easter Seal Society of Arizona, Inc. (ADEA-class)
D. AZ, No. CIV87-1935-PHX-RGS, filed Nov. 25, 1987, Phoenix D.O.
Challenge to a defined benefit pension plan that failed to credit employee salary increases occurring after age 60.

Electrolux Corporation (ADEA-individual)
W.D. NY, No. 88-0940C, filed Sep. 2, 1988, New York D.O.
Cashier, age 60, terminated for pretextual reasons in order to replace her with a 24-year-old employee at a much lower salary.

Emory University (ADEA-individual)
N.D. GA, No. 1:88-CV-871-GET, filed Apr. 20, 1988, Atlanta D.O.
Physician, age 63, removed as Director of Radiation Therapy for the stated reason that the hospital wanted "to bring in younger blood."

Fieldcrest Cannon, Inc. (ADEA-individual)]
M.D. GA, No. 88-108-COL, filed Sep. 6, 1988, Atlanta D.O.
"Quality Control Supervisor" age 60 laid off when job "abolished"; a 29-year-old then performed the same duties as "Quality Manager."

First American Corporation (ADEA-individual)
M.D. TN, No. 3-88-0817, filed Sep. 29, 1988, Memphis D.O.
Two oldest clerical employees, ages 56 and 68, reduced to part-time status, while all younger clericals continued to work full-time.

First National Bank of Aitkin (ADEA-class)
D. MN, No. CV5-88-194, filed Sep. 28, 1988, Milwaukee D.O.
Three of the oldest and highest paid administrative employees, ages 53, 55 and 59, terminated as a cost-cutting measure.

Fowler School District (ADEA-class)
D. CO, No. 88-M-926, filed June 16, 1988, Denver D.O.
Challenge to a policy of mandatorily retiring school bus drivers at age 65.

Fulflex, Inc.; Abenante v. (ADEA-class)
D. RI, No. 87-0456B, intervened May 19, 1988, New York D.O.
Policy of reducing severance pay by the "present value" of accrued pension benefits, which has an adverse impact on older employees.

GASCO, Inc. (ADEA-individual)
C.D. CA, No. 88-00724, filed Sep. 30, 1988, San Francisco D.O.
Two managers, ages 50 and 60, terminated by a new vice president who told other employees that he wanted to bring in "fresh young blood."

Gear Petroleum Co. (ADEA-class)
D. KS, No. 88-1223-K, filed Mar. 31, 1988, New Orleans D.O.
Challenge to a practice of terminating oil field workers at age 65, for alleged safety reasons.

General Electric Co. (ADEA-individual)
W.D. WA, No. C88-397, filed Mar. 28, 1988, Seattle D.O.
"Sales Engineer" age 50 with 20 years of service selected for layoff and forced to transfer, instead of 29-year-old with 6 years service.

Gibson Guitar Corporation (ADEA-class)
M.D. TN, No. 3-88-0802, filed Sep. 23, 1988, Memphis D.O.
Pattern of age discrimination in the termination of 7 management employees, ages 45-62, during a workforce reduction.

Hall-Mark Electronics Corp. (ADEA-individual)
N.D. GA, No. C87-2743A, filed Dec. 16, 1987, Atlanta D.O.
Senior "Product Manager" age 66 discharged after refusing to retire, while similarly rated colleagues aged 27 and 32 were retained.

Hanson Aviation, Inc. (ADEA-individual)
D. MD, No. JH-88-901, filed Mar. 25, 1988, Baltimore D.O.
Applicant age 44 denied an employment interview because he had filed an ADEA charge relating to a prior job opening with same employer.

Hilton Casinos, Inc.; Brooks v. (ADEA-class)
D. NV, No. CV-LV-84-436, intervened Jan. 29, 1988, Los Angeles D.O.
All "21 Pit" employees with more than 10 years of service terminated during a reduction-in-force: 33 of 37 discharged were over age 40.

Holiday Inn of Oil City (ADEA-individual)
W.D. PA, No. 88-169E, filed June 27, 1988, Philadelphia D.O.
Dining room hostess, age 56, forced to take early retirement by new owner in order to advance a 34-year-old employee into the position.

Holiday Inn of Oil City (ADEA/Title VII-individual)
W.D. PA, No. 88-234E, filed Sep. 6, 1988, Philadelphia D.O.
Executive chef, a 60-year-old Black, forced to take early retirement by new owner; he was replaced by his 25-year-old White assistant.

Iberia Airlines (ADEA-individual)
E.D. NY, No. 88-2980, filed Sep. 26, 1988, New York D.O.
Challenge to a policy of age-64 mandatory retirement for Spanish nationals employed in the United States by a Spanish company.

Independent Stave Co. (ADEA/Title VII-individual)
W.D. MO, No. 888-0156-C, filed Sep. 29, 1988, St. Louis D.O.
Failure to recall female "grader," age 54, while hiring 2 young men to perform substantially the same duties under a different title.

Joseph B. Fay Company (ADEA-class)
W.D. PA, No. 88-1352, filed June 16, 1988, Philadelphia D.O.
Truck drivers aged 50, 60, and 61 laid off due to a contract cancellation, while drivers aged 34 and 41 were retained for other work.

Joseph E. Seagram & Sons, Inc. (ADEA-class)
M.D. FL, No. 88-417-CIV-T-13A, filed Mar. 28, 1988, OGC-Headquarters
Intentional age discrimination in the termination of about 75 older employees during a companywide reorganization of sales management.

J.M. Mays, Inc. (ADEA-class)
E.D. NY, No. 88-3020, filed Sep. 29, 1988, New York D.O.
Pattern-and-practice of laying off managers over age 40 and later replacing them with newly hired or promoted employees under age 40.

Killdeer School District (ADEA-class)
D. ND, No. A1-88-203, filed Sep. 16, 1988, Denver D.O.
Challenge to a state law providing for age-65 mandatory retirement of school bus drivers.

KMMT, Inc. (ADEA-individual)
N.D. IA, No. 88-C-3006, filed Feb. 1, 1988, Milwaukee D.O.
Sales representatives aged 56 and 61 terminated for alleged cause, shortly after being told that they were "too old for the job."

Lawry's Foods, Inc. (ADEA-individual)
C.D. CA, No. 88-05784-DT, filed Sep. 30, 1988, Los Angeles D.O.
Failure to hire an experienced and qualified applicant, age 46, as a food server; 3 less experienced applicants, ages 21-31, were hired.

Los Angeles Unified School District (ADEA-individual)
C.D. CA, No. 88-05711-WJR, filed Sep. 23, 1988, Los Angeles D.O.
Qualified applicant, age 46, rejected for employment as "apprentice locksmith" pursuant to an allegedly exempt apprenticeship program.

Los Angeles Unified School District (ADEA-class)
C.D. CA, No. 88-05865-HLH, filed Sep. 30, 1988, Los Angeles D.O.
Challenge to a policy of denying disability benefits to employees age 60 or older.

LuckMarr Plastics, Inc. (ADEA/Title VII-individual)
E.D. MI, No. 87-CIV-74114-DT, filed Nov. 12, 1987, Detroit D.O.
Refusal to hire a highly qualified 63-year-old Black applicant into a managerial position, because of his age and/or race.

Lynwood Unified School District (ADEA-individual)
C.D. CA, No. 88-02080, filed Apr. 15, 1988, Los Angeles D.O.
Maintenance worker, age 66, denied promotion to a job as a "glazier" in favor of a much less qualified 35-year-old colleague.

Marriott Corporation (ADEA/Title VII-individual)
E.D. PA, No. 88-7542, filed Sep. 29, 1988, Philadelphia D.O.
Restaurant manager denied a transfer, and terminated after sale of hotel, because of his age (55) and/or national origin (Philipino).

Massachusetts Retirement Board (ADEA-class)
D. MA, No. 88-1988-S, filed Aug. 25, 1988, New York D.O.
Challenge to a state law which requires that all "mental health social workers" retire at age 65.

Merle Norman Cosmetics (ADEA-individual)
C.D. CA, No. 88-05712-SVW, filed Sep. 23, 1988, Los Angeles D.O.
Department manager, age 54, "promoted" into a position slated for elimination as part of a plan to replace her with "someone younger."

Midwest Spring and Chassis Service, Ltd. (ADEA/Title VII-individual)
D. CO, No. 88-M-1563, filed Sep. 28, 1988, Denver D.O.
Assistant foreman, a 59-year-old Hispanic, discharged for reasons which had not previously caused discharges of younger non-Hispanics.

Modern Controls, Inc. (ADEA-individual)
D. MN, No. 4-88-38, filed Jan. 20, 1988, Milwaukee D.O.
Pattern and practice of failing or refusing to hire applicants age 40 or older for employment in sales representative positions.

M.P.L., Inc. (ADEA-individual)
D. CO, No. 88-M-1558, filed Sep. 28, 1988, Denver D.O.
Sales manager, age 62, terminated instead of a less senior, 38-year-old colleague, whose salary and pension entitlement were much lower.

Northwest Automatic Products, Inc. (ADEA-class)
D. MN, No. 4-88-221, filed Mar. 17, 1988, Milwaukee D.O.
Pattern of terminating oldest management employees, including the corporate president and 2 vice presidents, during a reorganization.

Orbit Valve Co. (ADEA-individual)
E.D. AR, No. L-C-87-0670, filed Oct. 1, 1987, Memphis D.O.
Failure or refusal to hire a highly qualified 50-year-old applicant as a welder, while hiring a much less experienced applicant age 24.

Oscar Mayer Company (ADEA-class)
E.D. PA, No. 88-6904, filed Sep. 8, 1988, Philadelphia D.O.
Challenge to a policy of denying severance benefits to permanently laid-off employees who elect to take immediate retirement pensions.

Pester Marketing Co. (ADEA-individual)
S.D. IA, No. 87-971-B, filed Dec. 9, 1987, Milwaukee D.O.
Gas station manager, age 61, discharged for overtly age discriminatory reasons.

Pittsburgh Forging Co. (ADEA/Title VII-indivdiual)
W.D. PA, No. 88-2139, filed Sep. 26, 1988, Philadelphia D.O.
"Senior Buyer," a male aged 63, laid off during a reduction for the reason that his slot was needed to retain a "young woman" buyer.

Prevue Shoes (ADEA-individual)
W.D. TN, No. 88-1062, filed Apr. 19, 1988, Memphis D.O.
Female sales clerk, age 66, forced to retire for the stated reason that the owners wanted "a pretty, young girl" for the job.

Rand Construction Co. (ADEA-individual)
M.D. NC, No. C-88-277-S, filed Apr. 7, 1988, Charlotte D.O.
Refusal to hire an experienced, 56-year-old applicant for employment as a construction worker, because he was thought to be "too old."

Randhill Park Cemetery (ADEA-individual)
N.D. IL, No. 88-C-2801, filed Mar. 31, 1988, Chicago D.O.
"Sales Counselor," age 72, fired in direct and immediate retaliation for his threat to file an ADEA charge alleging age-based harassment.

Ranger Well Service, Inc. (ADEA-class)
E.D. TX, No. TY-88-454-CA, filed Aug. 4, 1988, Dallas D.O.
Anecdotal evidence showing that 6 oldest employees, ages 50-63, were selected because of age for termination in a workforce reduction.

Riverfront Guard Services (ADEA-class)
W.D. PA, No. 88-2185, filed Sep. 29, 1988, Philadelphia D.O.
Three security guards, ages 63, 69 and 71, terminated for pretextual reasons and replaced by newly hired young guards.

Sanford and Charles, Inc. (ADEA-individual)
E.D. VA, No. 88-80-NN, filed June 6, 1988, Baltimore DO.
Refusal to compensate a 50-year-old former employee for his earned vacation benefits, because he had filed an ADEA charge.

San Jose Mercury News (ADEA-individual)
N.D. CA, No. C-88-20649, filed Sep. 30, 1988, San Francisco DO.
Refusal to transfer a 56-year-old employee into a sales position, while hiring much younger applicants who were not better qualified.

Santa Barbara School District (ADEA-individual)
C.D. CA, No. CV88-0744, filed Feb. 11, 1988, Los Angeles D.O.
Inexperienced outside applicants hired for permanent teaching jobs, instead of a highly rated, long-term substitute teacher aged 57.

Santa Fe Engineers, Inc. (ADEA/Title VII-individual)
C.D. CA, No. 88-3475-HLH, filed June 17, 1988, San Francisco D.O.
Foreman harassed and ultimately discharged because of his age (63) and his national origin (Japanese).

School Board of Marion County (ADEA-individual)
M.D. FL, No. 88-135-CIV-OC-12, filed Aug. 9, 1988, Miami D.O.
Experienced 52-year-old applicant denied an interview for a "warehouseman" position; inexperienced 33-year-old applicant was hired.

Screen Extras Guild (ADEA-individual)
C.D. CA, No. CV87-07847-AAH, filed Dec. 10, 1987, Los Angeles D.O.
Denial of union membership to a 50-year-old applicant on pretextual grounds that there were too many members with his "older look."

Shoney's of Hendersonville, Inc. (ADEA-individual)
W.D. NC, No. AC-88-79, filed Mar. 21, 1988, Charlotte D.O.
Failure or refusal to rehire two oldest waitresses, both age 50, when restaurant reopened under new ownership.

Shorter College (ADEA/Title VII-individual)
N.D. GA, No. 4:88-CV-0221-HLM, filed Sep. 16, 1988, Atlanta D.O.
Refusal to provide employment data to prospective employers of a 47-year-old male, because he had filed ADEA and Title VII-sex charges.

Signode Corporation (ADEA-class)
W.D. PA, No. 88-2138, filed Sep. 26, 1988, Philadelphia D.O.
Pattern-and-practice of discrimination in the hiring and termination of "sales representatives."

Southgate Apartments, Ltd. (ADEA-individual)
W.D. TX, No. A-88-CA-401, filed May 26, 1988, San Antonio D.O.
Refusal to hire experienced and qualified 67-year-old applicant as a "housekeeper," because of her age.

The Americas Publishing Co. (ADEA-class)
S.D. FL, No. 87-2246-CIV-H, filed Dec. 29, 1987, Miami D.O.
Failure to offer employees and spouses age 65 or older the same group health insurance coverage as younger employees and spouses.

The Bibb Company (ADEA-individual)
N.D. GA, No. 88-107-COL, filed Sep. 15, 1988, Atlanta D.O.
Employee denied an interdepartment transfer because of his age (52); as a result, he was terminated during a later workforce reduction.

Thomas E. Ingstad Broadcasting, Inc. (ADEA-individual)
D. SD, No. 88-4162, filed Sep. 28, 1988, Denver D.O.
New station manager, age 31, often made ageist remarks to and about operations manager, age 55, and fired him for pretextual reasons.

Three Rivers Aluminum Co. (ADEA-class)
W.D. PA, No. 88-1797, filed Aug. 15, 1988, Philadelphia D.O.
Policy of refusing to hire "laborer" applicants who had previously earned higher wages effectively excluded all applicants over age 40.

Todd Pacific Shipyards Corp. (ADEA-individual)
W.D. WA, No. C87-1719, filed Dec. 17, 1987, Seattle D.O.
Failure to recall senior "Ship Superintendent - Repair," age 64, while recalling less experienced colleagues aged 37, 41, and 49.

Tom's Maintenance Co. (ADEA/Title VII-class)
N.D. CA, No. CVF88-331EDP, filed June 21, 1988, San Francisco D.O.
Pattern-or-practice of age, race, and national origin discrimination due to a policy of hiring only young Korean applicants as janitors.

Triad Food & Beverage Operations, Inc. (ADEA/Title VII-class)
D. UT, No. 87-C-684-S, filed Oct. 5, 1987, Phoenix D.O.
Pattern of discrimination in refusing to hire any males or any women over age 40 for host and server positions in a restaurant.

Trico Industries, Inc. (ADEA/Title VII-individual)
C.D. CA, No. CV88-0802, filed Feb. 16, 1988, Los Angeles D.O.
Failure to recall senior "Machine Tool Maintenance" employee, a 57-year-old Black, while hiring two young Whites into the same job.

Union Carbide Corporation (ADEA-individual)
S.D. WV, No. 2:88-1328, filed Sep. 29, 1988, Philadelphia D.O.
Failure to hire 48-year-old applicant with 26 years of experience as a "millwright"; 12 younger, much less experienced applicants hired.

United Air Lines, Inc. (ADEA-class)
N.D. IL, No. 88-C-5681, filed July 1, 1988, Milwaukee D.O.
Challenge to a policy of refusing to allow employees to convert to individual health insurance coverage if over age 65 when terminated.

United Press International, Inc. (ADEA-individual)
S.D. NY, No. 88-CIV-4054, filed June 22, 1988, New York D.O.
Vice President/Asia Division, age 64, forced into early retirement because of his age.

United Stationers Supply Co. (ADEA-individual)
D. NJ, No. 87-5088, filed Dec. 23, 1987, Philadelphia D.O.
Discharged 42-year-old employee denied severance pay which she was entitled to receive, because she refused to waive her ADEA rights.

United Stockyards Corporation (ADEA-class)
D. MN, No. 3-88-468, filed July 15, 1988, Milwaukee D.O.
Anectodal and statistical evidence of a systematic effort to terminate older and more senior employees as a cost-cutting measure.

Vallejo Sanitation and Flood Control District (ADEA-individual)
E.D. CA, No. CIV-888-0370, filed Mar. 23, 1988, San Francisco D.O.
Experienced applicant age 56 rejected for a "Senior Civil Engineer" position, because he was "overqualified"; a 32-year-old was hired.

Virginia Commonwealth University (ADEA-individual)
E.D. VA, No. CA87-0776-R, filed Dec. 22, 1987, Baltimore D.O.
Refusal to hire a highly qualified 59-year-old applicant for an administrative position, because of his age.

Walled Lake Consolidated School District (ADEA-individual)
E.D. MI, No. 87-CV-74345-DT, filed Dec. 4, 1987, Detroit D.O.
Failure to hire a 57-year-old part-time custodian for a full-time position, while hiring much younger and less qualified applicants.

Wal-Mart Stores, Inc. (ADEA-individual)
W.D. AR, No. 88-5081, filed June 20, 1988, Memphis D.O.
Refusal to hire a highly qualified, 50-year-old applicant as a company pilot, because of his age.

Walsh Construction Co. (ADEA-individual)
S.D. GA, No. CV1-88-059, filed Apr. 14, 1988, Atlanta D.O.
Carpenter age 62 laid off as being "too old for the job," instead of a 27-year-old employee who was selected for layoff by the foreman.

Walt Disney World Co.; Hilderbrand v. (ADEA-class)
M.D. FL, No. 86-900-ORL19, intervened Oct. 1, 1987, Miami D.O.
Pattern of discrimination in the reorganization of "Area Manager/ Buyer" positions, resulting in the termination of older employees.

Washington County Board of Education (ADEA-class)
S.D. OH, No. C-1-88-845, filed Sep. 29, 1988, Cleveland D.O.
Challenge to state law denying disability retirements for employees who become disabled after attaining age 60.

Western Tile Co. (ADEA-individual)
S.D. CA, No. 88-659, filed May 4, 1988, Los Angeles D.O.
"Wareshouseman," age 60, terminated for the stated reason that he was "too old."

Western Union Telegraph Co. (ADEA-class)
S.D. NY, No. 88-CIV-6995, filed Sep. 30, 1988, New York D.O
Challenge to a policy of reducing the amount of severance benefits paid to laid-off employees who are eligible for immediate pensions.

Westinghouse Electric Corp. (ADEA-individual)
W.D. PA, No. 88-2162, Sep. 28, 1988, Philadelphia D.O.
Senior engineer, age 62, coerced into participating in a "voluntary separation plan" for age discriminatory reasons.

Westmoreland County Community College (ADEA-individual)
W.D. PA, No. 88-2179, filed Sep. 29, 1988, Philadelphia D.O.
Inexperienced 31-year-old applicant hired as a "Grants Coordinator" instead of an experienced, highly qualified 54-year-old applicant.

Wheeling Pittsburgh Steel Corp. (ADEA-class)
S.D. OH, No. C2-88-729, filed July 2, 1988, Cleveland D.O.
Collectively bargaining agreement which had the effect of denying supplemental unemployment benefits to all employees over age 50.

Wheeling Pittsburgh Steel Corp. (ADEA-individual)
N.D. WV, No. 88-067-W(K), filed Aug. 12, 1988, Philadelphia D.O.
Failure to promote highly rated 66-year-old maintenance employee into a supervisory job; a 35-year-old outside applicant was hired.

Wilson Foods Corp. (ADEA-class)
C.D. IL, No. 88-4056, filed May 19, 1988, Chicago D.O.
Denial of severance pay to retirement-eligble older employees who elected to take immediate pensions when a plant permanently closed.

ADEA Subpoena Enforcement Actions

During FY 1988, in addition to 118 substantive lawsuits, the EEOC filed 25 ADEA subpoena enforcement actions, 3 of which also sought investigative data relevant to concurrent Title VII charges. The following is a list of the 25 ADEA subpoena enforcement actions.

Anheuser Busch Co.
E.D. MO, No. 88 MISC 199, filed May 9, 1988, St. Louis D.O.

ARAMCO
S.D. TX, No. MISC. H-88-475, filed Aug. 23, 1988, Houston D.O.

Cherokee Nation
E.D. OK, No. CA3-88-12764, filed May 31, 1988, Dallas D.O.

City of North Bay Village
S.D. FL, No. 88-1327-CIV-M, filed July 19, 1988, Miami D.O.

Goody Products, Inc.
W.D. AR, No. FS-88-2, filed Feb. 3, 1988, Memphis D.O.

Great American Television and Radio Co. (KTBT-TV)
D. AZ, No. M88-2465-PHX-CAM, filed Sep. 30, 1988, Phoenix D.O.

Imperial Air Freight Co.
D. NJ, No. MISC-87-2495, filed Nov. 9, 1987, Philadelphia D.O.

K-Mart, Inc.
E.D. TX, No. TY-88-90-CA, filed Jan. 5, 1988, Dallas D.O.

Litetron, Inc.
E.D. LA, No. MISC. 2458, filed May 25, 1988, New Orleans D.O.

Los Angeles County Sheriff
C.D. CA, No. CV88-01575, filed Apr. 14, 1988, Los Angeles D.O.

Maverick County Stores, Inc.
D. ID, No. MS-3453, filed June 20, 1988, Seattle D.O.

McDonalds Corporation
S.D. TX, No. H-87-532, filed Oct. 22, 1987, Houston D.O.

MARISCO, Inc. (ADEA/Title VII)
E.D. LA, No. MISC. 2460, filed May 31, 1988, New Orleans D.O.

Pensoneau Excavating Co.
S.D. IL, No. 88-3141, Mar. 4, 1988, St. Louis D.O.

REVCO Drug Stores, Inc.
W.D. NC, No. 1047-M, filed Aug. 31, 1988, Charlotte D.O.

Ritenour School District
E.D. MO, No. 88 MISC 080, filed Feb. 26, 1988, St. Louis D.O.

Roadway Express, Inc.
N.D. TX, No. CA3-88-0124-C, filed Jan. 15, 198, Dallas D.O.

Shearson-American Express, Inc. (ADEA/Title VII)
S.D. CA, No. CV88-0198-G, filed Feb. 10, 1988, Los Angeles D.O.

Southern Atlantic Agency, Inc.
M.D. FL, No. 88-412-MIS-T-15C, filed Aug. 12, 1988, Miami D.O.

State of Colorado
D. CO, No. 88-X-49, filed Feb. 12, 1988, Denver D.O.

St. Luke's Hospital
E.D. MO, No. 88 MISC 370, filed Aug. 23, 1988, St. Louis D.O.

Trailways, Inc. (ADEA/Title VII)
W.D. LA, No. MISC. 87-96, filed Dec. 24, 1987, New Orleans D.O.

Villager Corporation
D. MD, No. JFM-88-2499, filed Aug. 22, 1988, Baltimore D.O.

Walker Manufacturing Co.
E.D. WI, No. 88-MISC-31, filed Feb. 25, 1988, Milwaukee D.O.

West Cash & Carry, Inc.
E.D. LA, No. MISC. 2538, filed Aug. 12, 1988, New Orleans D.O.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

March 30, 1988

The Honorable John Melcher
Chairman
Special Committee on Aging
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

As promised in Chairman Thomas' letter to you of February 1, 1988, I am providing you with a copy of the report of EEOC's director of the Office of Program Operations on the Age Discrimination in Employment Act charges which exceeded the statute of limitations. This report provides the number of such charges, identifies the offices where these charges are located and reports the reasons provided by field offices for EEOC's failure to process these charges within the statute of limitations.

With the imminent enactment into law of S. 2117, a way has been found to help EEOC correct this error by assisting those people who came to us for help and who ultimately may be found to have been discriminated against. As Chairman Thomas advised you in January, corrective action has been taken to ensure that such mismanagement of charges does not recur.

Sincerely,

Deborah J. Graham
Director of Communications
and Legislative Affairs

Enclosure

cc: Special Committee on Aging

REPORT TO CHAIRMAN CLARENCE THOMAS

PREPARED BY JAMES TROY, DIRECTOR, OFFICE OF PROGRAM OPERATIONS

ON ADEA CHARGES THAT EXCEEDED STATUTE OF LIMITATIONS

SUBMITTED MARCH 23, 1988

ADEA CHARGES THAT EXCEEDED THE STATUTE OF LIMITATIONS

FY 87 & 88

In July, 1987, the Commissioners indicated to the Offices of General Counsel and Program Operations concern regarding the number of cases being presented for litigation that posed statute of limitation problems. These cases were usually forwarded to Commissioners for notation vote with a "please expedite" request and acknowledgement, by the Districts, that the statute of limitations would expire if the Commission did not vote by a date certain. This situation resulted in OGC/OPO joint instructions to District Directors and Regional Attorneys to take identified steps to avoid statute of limitations problems in charges being investigated and in cases being prepared for suit recommendation.

In September 1987, OPO received a copy of the Senate Special Committee on Aging's request for information regarding EEOC's enforcement of the ADEA. The Committee requested specific data in numerous areas of our ADEA charge and litigation workload. In a subsequent meeting of various headquarters office directors with Commissioner Silberman, the Committee's questions were interpreted and assigned to appropriate offices for response. The Committee's questions regarding the statute of limitations concerned cases in our litigation workload and were assigned to the Office of General Counsel for response. OPO submitted charge processing summary information for inclusion in the response to the Committee.

While discussing the statute of limitations issue with OPO senior staff, we decided to determine the extent to which active charges in the investigative process may have exceeded the statute. Our intent was to use this information in deciding whether processing instructions, in addition to the August memo, were necessary. The Directors, Field Management Programs, in their next telephone contact with the Districts Directors requested the number of pending ADEA charges (total, individual, & class), the number that had exceeded the statute of limitations, and the number that would be in the workload at the end of the fiscal year. The responses revealed that 948 charges within the Districts' control had exceeded the statute and that 603 of them would be in the yearend ADEA workload. The information collected was considered in the District Directors' final performance appraisals completed in early November and was subsequently given to the Chairman in December. These numbers served as the basis of the Chairman's concern as recounted by news articles and his December 21 memorandum to the field managers instructing them to take definitive measures to preclude recurrence of this situation.

The Chairman directed OPO to determine the extent of the problem and to provide him with a full explanation for each charge that exceeded the statute. In OPO's January 22, 1988 memorandum, District Directors were required to submit "lists containing all charges in which the ADEA statute expired during FY 87 and separately, during FY 88." The annotated lists had to include the reasons the statute was allowed to expire in each charge. The original submissions from the field were received by Friday, February 26. Final reconciliation of these submissions was completed on March 22.

Our charge-by-charge count reveals the following, as reflected in the attachments appended to this report:

a.	Total charges that exceeded statute		1,608
	FY - 87	1,200	
	FY - 88	408	
	FMP-East	846	
	FMP-West	763	
b.	Total charges that exceeded statute for reasons within office control		1,240
	FY - 87	894	
	FY - 88	346	
c.	Total charges that exceeded statute for reasons outside of office control		368
	FY - 87	306	
	FY - 88	62	
d.	Types of charges that exceeded statute		
	Individual Charges	1557	
	Class Charges	51	

There were 50,887 total charges pending in the Commission's workload at the beginning of fiscal year 1987. These charges, when added to the 62,074 new charges that were filed, made EEOC's FY 87 workload reach 112,961 charges to process. The field staff resolved 53,482 total charges during FY 87, 27% (14,530) of which were resolved under the ADEA. The number of charges that exceeded the statute during FY 87 represented 1.06% of the FY 87 charge processing workload. We cannot make similar comparisons for FY 88 since statistics have been compiled for only one quarter.

Two Districts (San Antonio and San Francisco) reported having no charges and two Districts (Charlotte and Atlanta) reported one charge each that exceeded the statute. Six Districts reported more than 100, six reported more than 50, four reported more than 20, and three reported less than 20 charges that exceeded the statute of limitations during FY 87 and 88.

The field offices identified 26 reasons for the charges that exceeded the statute. Five of the reasons present situations that precluded charging parties' loss of rights or that were not fully within the control of local management. These situations are:

a. Charges in conciliation - These are charges in which violations were found during the investigation. The 2 year period ended while the office was attempting conciliation. However, the time is tolled during conciliation, therefore no rights were lost by charging parties. This is reason #3 on the attached list and includes 11 of the charges shown to have exceeded the statute of limitations.

b. Charges in which time is tolled - Time is tolled through consent of the Respondent for various reasons while the charges were being processed. Charging parties did not lose rights although the 2 year period expired prior to EEOC resolution of the charges. Reason #5 includes 35 charges shown to have exceeded the statute.

c. Charges in litigation - These are charges in which charging parties filed suit while the investigation in progress. Field offices did not know when suit was filed and continued the administrative process until advised that the case was in court. Processing stopped upon suit notification. Reason #20 includes 162 charges shown on the list.

d. Charges filed after statute expired - These are charges brought to the Commission more than 2 years after the date of the alleged violation. The charges were accepted only upon the insistence of charging parties. Reason #15 includes 77 charges in this category.

e. Charges filed within 180 days of statute expiration-

Most field offices have large investigative workloads. The pending inventory equates to approximately 70 charges per investigator assigned to the field enforcement units. This charge workload represents approximately 11.4 months of inventory. Therefore, without special attention, one could not expect new charges to be resolved within 6 months of filing. Reason #14 includes 83 charges in this category.

Clearly, other reasons point up situations that are within the field offices' control and therefore, are not acceptable explanations for allowing the statute of limitations to expire on 1,240 charges in FY 87 and 88. The Office of Program Operations has directed field offices to alter their approaches to charge management in order to preclude recurrence of this situation. We are also revisiting manualized instructions which guide process-ing of ADEA charges to determine what changes or clarifications can aid Districts in this regard.

ATTACHMENTS:

A - List of 26 Reasons that Statute Allowed to Expire

B - Numerical List of Charges Exceeding Statute by Field Office

C - Charges That Exceeded the Statute of Limitations FY-87 and 88 - MASTER FILE

ATTACHMENT A

OFFICE	ADEA +SOL
Atlanta	1
Savannah	
TOTAL	1
Baltimore	138
Norfolk	3
Richmond	14
Washington	20
TOTAL	175
Birmingham	13
Jackson	0
TOTAL	13
Charlotte	0
Greensboro	0
Greenville	0
Raleigh	1
TOTAL	1
Cleveland	17
Cincinatti	8
TOTAL	25
Detroit	105
TOTAL	105
Memphis	19
Little Rock	10
Nashville	36
TOTAL	65
Miami	23
Tampa	39
TOTAL	62
New Orleans	8
TOTAL	8
New York	110
Boston	5
Buffalo	35
TOTAL	150
Philadelphia	157
Newark	27
Pittsburgh	57
TOTAL	241
EAST	846

OFFICE	ADEA +SOL
Chicago	137
TOTAL	137
Dallas	36
Oklahoma City	40
TOTAL	76
Denver	37
TOTAL	37
Houston	69
TOTAL	69
Indianapolis	27
Louisville	8
TOTAL	35
Los Angeles	222
San Diego	0
TOTAL	222
Milwaukee	6
Minneapolis	5
TOTAL	11
Phoenix	20
Albuquerque	0
TOTAL	20
San Antonio	0
El Paso	25
TOTAL	25
San Francisco	0
Fresno	0
Honolulu	0
Oakland	0
San Jose	0
TOTAL	0
Seattle	50
TOTAL	50
St. Louis	51
Kansas City	29
TOTAL	80
WEST	762
NATIONAL	1,608

ATTACHMENT B

	CODE	REASON	# OF CHARGES
	0	Internal problems, staffing, etc. No acceptable excuse	471
	1	Age cases complex, take longer, no precedent	36
	2	In lengthy settlement	37
*	3	In conciliation	11
	4	Case forwarded to EEOC Headquarters	21
*	5	Clock suspended- did not lose right to sue	35
	6	Jurisdiction - basis	12
	7	Jurisdiction - field offices responsibility, transferred to or from another office or agency late	26
	8	Poor case tracking	62
	9	Docket order - oldest first, workload	56
	10	Continuing harm - used latest date	36
	11	Mixed cases, hard to determine date of violation	58
	12	Charging Party filed after 6 months - 12 months	115
	13	Charging Party filed after 12 months - 18 months	66
*	14	Charging Party filed after 18 months - 24 months	83
*	15	2 years already up	77
	16	Uncooperative respondent	64
	17	Charging party fails to provide appropriate information	30
	18	706 agency not timely in referring to EEOC	48
	19	Respondent bankrupt or out of business	7
*	20	In litigation, charging party filed suit	162
	21	In subpoena	16
	22	Reason being reconciled	4
	23	Reason unclear from district office submission	19
	24	Class action	51
	25	Systemic case	5
		Total	1,608
		* Reason acceptable to OPO management Total *	368
		Total less *	1,240

ATTACHMENT C

MASTER FILE

OFFICE OF PROGRAM OPERATIONS
BY SYSTEM ORDER

District Office	Code	Charge Number	Violation Date	Closure Date	# Days	Reason Code	Date Received	# Days After
BALTIMORE	02	033-86-1363	12/01/85			00	03/03/86	92
BALTIMORE	02	033-86-1405	02/02/83	12/17/87	1779	15	03/31/86	1153
BALTIMORE	02	033-86-1480	09/01/85	02/02/88	884	12	03/12/86	192
BALTIMORE	02	033-86-1949	07/31/85			12	05/19/86	292
BALTIMORE	02	033-86-2016	06/27/85			12	05/23/86	330
BALTIMORE	02	033-86-2017	06/27/85			12	05/23/86	330
BALTIMORE	02	033-86-2018	06/27/85			12	05/23/86	330
BALTIMORE	02	033-86-2050	07/31/85			12	05/29/86	302
BALTIMORE	02	033-86-2051	07/31/85			12	05/29/86	302
BALTIMORE	02	033-86-2057	07/31/85			11	05/29/86	302
BALTIMORE	02	033-86-2077	11/01/85			12	06/04/86	215
BALTIMORE	02	033-86-2186	07/02/85	02/18/88	961	12	06/17/86	350
BALTIMORE	02	033-86-2262	07/31/85	02/18/88	932	12	06/20/86	324
BALTIMORE	02	033-86-2339	07/31/85			12	05/30/86	303
BALTIMORE	02	033-86-2354	12/01/85	02/09/88	800	12	07/09/86	220
BALTIMORE	02	033-86-2390	07/31/85	02/18/88	932	12	07/18/86	352
BALTIMORE	02	033-86-2391	07/31/85	02/18/88	932	13	07/18/86	352
BALTIMORE	02	033-86-2430	11/01/85	02/18/88	839	12	07/28/86	269
BALTIMORE	02	033-86-2431	10/01/85	02/18/88	870	14	07/28/86	300
BALTIMORE	02	033-86-2456	11/01/85	02/18/88	839	12	08/08/86	280
BALTIMORE	02	033-86-2463	12/01/84	01/27/87	787	14	08/06/86	613
BALTIMORE	02	033-86-2469	10/28/85	02/01/88	826	12	08/04/86	280
BALTIMORE	02	033-86-2489	07/31/85	02/18/88	932	13	08/20/86	385
BALTIMORE	02	033-86-2525	03/31/84			15	10/04/86	917
BALTIMORE	02	033-86-2608	10/28/85	02/01/88	826	12	08/26/86	302
BALTIMORE	02	033-86-2627	07/03/85	02/18/88	960	14	09/03/86	427
BALTIMORE	02	033-86-2634	06/01/84	02/13/87	987	15	08/22/86	812
BALTIMORE	02	033-86-2693	07/31/85	02/18/88	932	13	09/23/86	419
BALTIMORE	02	033-86-2694	07/31/85	02/18/88	932	13	09/23/86	419
BALTIMORE	02	033-86-2706	10/09/85	07/07/87	271	13	10/09/86	365
BALTIMORE	02	120-87-0024	06/01/85			15	07/16/87	775
BALTIMORE	02	120-87-0037	02/01/86			12	10/15/86	256
BALTIMORE	02	120-87-0038	02/01/86			12	10/15/86	256
BALTIMORE	02	120-87-0039	02/01/86			12	10/15/86	256
BALTIMORE	02	120-87-0147	03/31/85	02/18/88	1054	20	11/05/86	584
BALTIMORE	02	120-87-0158	07/01/85	02/18/88	962	20	11/04/86	491

BALTIMORE	02	120-87-0175	07/31/85	02/18/88	932	14	11/07/86	464
BALTIMORE	02	120-87-0222	07/01/83	02/18/88	1693	15	11/19/86	1237
BALTIMORE	02	120-87-0243	07/30/83	01/28/88	1643	15	11/24/86	1213
BALTIMORE	02	120-87-0276	03/31/84			15	10/04/86	917
BALTIMORE	02	120-87-0277	03/31/84			15	10/04/86	917
BALTIMORE	02	120-87-0278	04/11/81	02/06/87	2127	20	12/15/86	2074
BALTIMORE	02	120-87-0311	08/01/85	02/18/88	931	20	12/09/86	495
BALTIMORE	02	120-87-0316	07/31/85	02/18/88	932	00	12/10/86	497
BALTIMORE	02	120-87-0320	07/01/84			15	12/15/86	897
BALTIMORE	02	120-87-0322	07/01/85	02/18/88	962	20	12/12/86	529
BALTIMORE	02	120-87-0328	06/01/85			14	12/15/86	562
BALTIMORE	02	120-87-0341	07/03/85	02/18/88	960	20	12/16/86	531
BALTIMORE	02	120-87-0354	07/31/85	02/18/88	932	20	12/18/86	505
BALTIMORE	02	120-87-0358	07/31/85	02/18/88	932	14	12/18/86	505
BALTIMORE	02	120-87-0359	07/31/85	02/18/88	932	20	12/18/86	505
BALTIMORE	02	120-87-0362	07/31/85	02/18/88	932	20	12/18/86	505
BALTIMORE	02	120-87-0371	07/31/85	02/18/88	932	20	12/19/86	506
BALTIMORE	02	120-87-0372	07/31/85	02/18/88	932	20	12/19/86	506
BALTIMORE	02	120-87-0380	08/01/84	02/18/88	1296	20	12/23/86	874
BALTIMORE	02	120-87-0390	07/31/85	02/18/88	932	20	12/29/86	516
BALTIMORE	02	120-87-0403	04/30/85	02/18/88	1024	20	01/05/87	615
BALTIMORE	02	120-87-0410	10/01/84	02/18/88	1235	20	01/06/87	827
BALTIMORE	02	120-87-0422	08/01/85	02/18/88	931	20	01/07/87	524
BALTIMORE	02	120-87-0424	07/01/85	02/18/88	962	14	01/09/87	557
BALTIMORE	02	120-87-0426	12/01/84	02/18/88	1174	20	01/07/87	767
BALTIMORE	02	120-87-0436	07/31/85	02/18/88	932	00	01/09/87	527
BALTIMORE	02	120-87-0447	07/31/85	02/18/88	932	20	01/12/87	530
BALTIMORE	02	120-87-0462	07/31/85	02/18/88	932	20	01/14/87	532
BALTIMORE	02	120-87-0464	07/31/85	02/18/88	932	13	01/14/87	532
BALTIMORE	02	120-87-0468	11/30/85	02/18/88	810	20	01/16/87	412
BALTIMORE	02	120-87-0470	07/30/85	02/18/88	933	20	01/16/87	535
BALTIMORE	02	120-87-0471	07/31/85	02/18/88	932	20	01/16/87	534
BALTIMORE	02	120-87-0495	07/31/85	02/18/88	932	20	01/20/87	538
BALTIMORE	02	120-87-0504	07/31/85	02/18/88	932	20	02/03/87	552
BALTIMORE	02	120-87-0549	07/31/85	02/18/88	932	20	02/10/87	559
BALTIMORE	02	120-87-0550	07/01/85	02/18/88	962	20	02/10/87	589
BALTIMORE	02	120-87-0555	07/31/85	02/18/88	932	20	01/16/87	534
BALTIMORE	02	120-87-0575	07/31/85	01/28/88	911	20	02/18/87	567
BALTIMORE	02	120-87-0603	07/31/85	01/28/88	911	20	02/25/87	574
BALTIMORE	02	120-87-0636	05/01/84	01/28/88	1367	20	03/03/87	1036
BALTIMORE	02	120-87-0667	05/31/84	01/28/88	1337	20	03/06/87	1009
BALTIMORE	02	120-87-0668	07/31/85	01/28/88	911	20	03/06/87	583
BALTIMORE	02	120-87-0713	07/31/85	01/28/88	911	20	02/25/87	574
BALTIMORE	02	120-87-0734	09/20/85			14	03/18/87	544
BALTIMORE	02	120-87-0738	07/01/85	01/28/88	941	20	03/16/87	623

District Office	Code	Charge Number	Violation Date	Closure Date	# Days	Reason Code	Date Received	# Days After
BALTIMORE	02	120-87-0741	07/01/84	01/28/88	1306	20	03/30/87	1002
BALTIMORE	02	120-87-0760	07/01/84	01/28/88	1306	20	03/30/87	1002
BALTIMORE	02	120-87-0764	06/18/84	09/25/87	1194	20	03/26/87	1011
BALTIMORE	02	120-87-0769	03/01/84	09/25/87	1303	15	03/26/87	1120
BALTIMORE	02	120-87-0774	07/31/85	01/28/88	911	00	03/31/87	608
BALTIMORE	02	120-87-0816	06/29/84	01/28/88	1369	20	03/27/87	1062
BALTIMORE	02	120-87-0823	07/31/85	01/28/88	911	20	03/31/87	608
BALTIMORE	02	120-87-0848	09/30/85	01/28/88	850	20	04/06/87	553
BALTIMORE	02	120-87-0852	08/01/85	01/28/88	910	20	04/09/87	616
BALTIMORE	02	120-87-0853	08/01/85	01/28/88	910	20	04/07/87	614
BALTIMORE	02	120-87-0861	07/31/85	01/28/88	911	20	04/10/87	618
BALTIMORE	02	120-87-0903	04/28/84	01/28/88	1370	20	04/20/87	1087
BALTIMORE	02	120-87-0907	07/01/85	01/28/88	941	20	04/23/87	661
BALTIMORE	02	120-87-0910	11/01/84	01/28/88	1183	20	04/23/87	903
BALTIMORE	02	120-87-0914	10/01/85	01/28/88	849	20	05/12/87	588
BALTIMORE	02	120-87-1063	01/01/86			13	06/04/87	519
BALTIMORE	02	120-87-1067	07/31/85	01/28/88	911	20	06/03/87	672
BALTIMORE	02	120-87-1069	07/31/85	01/28/88	911	20	06/03/87	672
BALTIMORE	02	120-87-1078	08/21/84	01/28/88	1255	20	06/05/87	1018
BALTIMORE	02	120-87-1097	07/15/85	01/28/88	927	20	05/17/87	610
BALTIMORE	02	120-87-1163	02/01/85	01/28/88	1091	20	06/19/87	868
BALTIMORE	02	120-87-1182	12/31/85	01/28/88	758	20	05/21/87	506
BALTIMORE	02	120-87-1183	07/31/85	01/28/88	911	20	05/21/87	659
BALTIMORE	02	120-87-1193	04/30/84	01/28/88	1368	20	06/26/87	1152
BALTIMORE	02	120-87-1224	11/30/85	01/28/88	789	20	07/06/87	583
BALTIMORE	02	120-87-1570	07/05/85	01/28/88	937	20	09/08/87	795
BALTIMORE	02	120-88-0021	11/30/85			14	10/08/87	677
BALTIMORE	02	120-88-0112	07/01/85	02/09/88	953	20	10/23/87	844
BALTIMORE	02	120-88-0305	07/01/85	01/28/88	941	20	12/18/87	900
BALTIMORE	02	120-88-0326	01/01/84	01/29/88	1489	07	12/22/87	1451
BALTIMORE	02	121-86-0731	06/24/86			13	11/15/87	509
NORFOLK	03	037-85-0905	09/05/85	11/23/87	809	00	09/16/85	11
NORFOLK	03	037-86-0746	05/16/86			22	09/09/86	116
NORFOLK	03	121-88-0238	12/20/85			15	01/12/88	753
RICHMOND	04	032-86-0404	10/09/85			00	01/31/86	114
RICHMOND	04	056-85-0267	11/28/84	12/18/86	750	11	12/19/84	21
RICHMOND	04	056-85-0758	04/03/85	12/28/86	634	20	04/03/85	0
RICHMOND	04	056-86-0384	09/15/85			12	03/17/86	183
RICHMOND	04	056-86-0401	12/31/85			02	03/18/86	77
RICHMOND	04	122-86-0373	11/17/85			17	02/11/86	86
RICHMOND	04	122-86-0763	11/20/85	12/31/87	771	00	08/11/86	264
RICHMOND	04	122-87-0114	04/08/85	06/02/87	785	14	11/11/86	582

RICHMOND	04	122-87-0115	03/08/85	06/02/87	785	14	11/11/86	582
RICHMOND	04	122-87-0116	04/08/85	06/02/87	785	14	11/11/86	582
RICHMOND	04	122-87-0122	04/08/85	06/02/87	785	14	11/11/86	582
RICHMOND	04	122-87-0152	04/08/85	06/02/87	785	14	11/11/86	582
RICHMOND	04	122-87-0502	08/15/85			14	05/31/87	593
RICHMOND	04	122-88-0076	12/04/85			14	10/29/87	694
WASHINGTON	05	032-85-0506	12/31/84			10	03/26/85	87
WASHINGTON	05	032-85-0619	04/08/85			03	04/18/85	10
WASHINGTON	05	032-85-1129	03/18/85			12	09/25/85	191
WASHINGTON	05	032-86-0295	12/21/85			00	01/08/86	18
WASHINGTON	05	032-86-0297	10/01/85			00	01/09/86	100
WASHINGTON	05	032-86-0298	08/31/85			12	01/09/86	131
WASHINGTON	05	032-86-0331	05/10/85			12	01/17/86	252
WASHINGTON	05	032-86-0408	11/06/85			00	02/03/86	89
WASHINGTON	05	032-86-0435	10/11/85			00	02/13/86	125
WASHINGTON	05	032-86-0437	12/01/85			00	02/13/86	74
WASHINGTON	05	032-86-0462	12/13/85			13	12/19/86	369
WASHINGTON	05	032-86-0502	12/16/85			00	02/28/86	74
WASHINGTON	05	032-86-0600	10/30/85			22	03/26/86	147
WASHINGTON	05	032-86-0823	10/04/85			12	04/09/86	187
WASHINGTON	05	032-86-0827	11/18/85			00	04/09/86	142
WASHINGTON	05	032-86-0835	10/11/85			12	04/11/86	182
WASHINGTON	05	123-86-0906	10/30/85			12	04/28/86	180
WASHINGTON	05	123-86-1315	01/06/86			12	10/06/86	273
WASHINGTON	05	123-87-0353	09/16/85			14	02/11/87	513
WASHINGTON	05	132-86-1083	01/13/86			12	07/09/86	177
BIRMINGHAM	06	042-86-0172	07/18/85	02/29/88	956	00	11/26/85	131
BIRMINGHAM	06	042-86-0261	08/21/85			16	12/10/86	111
BIRMINGHAM	06	042-86-1079	11/01/85			00	10/15/86	348
BIRMINGHAM	06	042-86-1237	11/25/85	01/28/88	794	00	05/27/86	183
BIRMINGHAM	06	042-86-1258	11/30/85			00	11/03/86	338
BIRMINGHAM	06	042-86-1259	11/30/85			00	11/03/86	338
BIRMINGHAM	06	042-86-1417	01/15/86			00	07/15/86	181
BIRMINGHAM	06	042-86-1508	06/16/86	09/28/87	469	19	07/30/87	409
BIRMINGHAM	06	042-86-1540	01/11/86	02/02/88	752	00	07/22/86	192
BIRMINGHAM	06	042-86-1682	02/03/86	02/26/88	753	00	11/03/86	273
BIRMINGHAM	06	130-87-1147	01/07/85	01/29/88	1117	00	10/01/86	632
BIRMINGHAM	06	130-87-1247	02/01/86	01/29/88	727	00	04/30/87	453
BIRMINGHAM	06	130-88-0647	01/24/86	01/29/88	735	14	12/14/87	689
RALEIGH	11	141-88-0228	01/10/86			14	12/10/87	699
CLEVELAND	12	052-85-1062	12/08/84	09/30/87	1026	00	02/09/85	63
CLEVELAND	12	052-85-2692	04/03/85	09/30/87	910	00	04/15/85	12
CLEVELAND	12	052-85-2996	12/03/84	05/01/87	879	00	05/22/85	170
CLEVELAND	12	052-85-3458	02/14/85	05/20/87	825	01	07/08/85	144
CLEVELAND	12	052-86-0488	10/15/85	01/21/88	828	00	11/04/85	20

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CLEVELAND	12	052-86-1276	08/19/85	09/29/87	771	00	01/08/86	142
CLEVELAND	12	052-86-1299	07/12/85	09/14/87	794	00	01/10/86	182
CLEVELAND	12	052-86-1306	03/21/85	03/21/87	730	00	01/10/86	295
CLEVELAND	12	052-86-1722	07/09/85	07/29/87	750	00	02/07/86	213
CLEVELAND	12	052-86-1862	07/31/85	09/22/87	783	00	02/19/86	203
CLEVELAND	12	052-86-1864	09/17/85	09/30/87	743	00	02/19/86	155
CLEVELAND	12	052-86-1967	04/26/85	09/08/87	865	00	02/26/86	306
CLEVELAND	12	052-86-2033	09/11/85	01/27/88	868	00	03/03/86	173
CLEVELAND	12	052-86-2189	05/12/85	06/29/87	778	00	03/07/86	299
CLEVELAND	12	052-86-2338	08/19/85	09/10/87	752	00	03/20/86	213
CLEVELAND	12	053-86-1231	12/02/85	01/06/88	765	00	03/11/86	99
CLEVELAND	12	220-87-0167	10/29/84	06/11/87	955	14	10/16/86	717
CINCINNATI	13	053-85-0881	01/07/85	01/20/87	743	12	06/16/86	525
CINCINNATI	13	053-85-1473	01/02/85	02/04/87	763	12	06/11/86	525
CINCINNATI	13	053-85-1810	01/03/85	02/23/87	781	07	05/20/85	137
CINCINNATI	13	053-85-2393	07/29/85	09/30/87	793	07	06/11/86	317
CINCINNATI	13	053-86-0333	08/01/85	08/12/87	741	07	05/30/86	302
CINCINNATI	13	057-85-1301	03/29/85	08/25/86	514	04	04/10/85	12
CINCINNATI	13	057-86-0405	02/21/85	03/13/87	750	00	12/05/85	287
CINCINNATI	13	221-87-0518	09/30/85	10/26/87	756	14	05/20/87	597
DETROIT	14	054-83-0513	11/09/82	02/27/87	1571	00	11/09/82	0
DETROIT	14	054-83-0514	11/09/82	02/27/87	1571	00	11/09/82	0
DETROIT	14	054-83-0543	11/10/82	10/24/86	1444	00	11/10/87	0
DETROIT	14	054-83-0567	11/10/82	02/27/87	1570	00	11/10/82	0
DETROIT	14	054-83-0571	11/10/82	01/30/87	1542	00	11/10/82	0
DETROIT	14	054-83-0572	11/10/82	02/27/87	1570	00	11/10/82	0
DETROIT	14	054-83-0573	11/10/82	02/27/87	1570	00	11/10/82	0
DETROIT	14	054-83-0578	11/10/82	03/26/87	1597	00	11/10/82	0
DETROIT	14	054-83-0661	11/16/82	02/27/87	1564	00	11/16/82	0
DETROIT	14	054-83-0665	11/16/82	01/30/87	1536	00	11/16/82	0
DETROIT	14	054-83-0666	11/16/82	02/27/87	1564	00	11/16/82	0
DETROIT	14	054-83-0670	11/16/82	02/27/87	1564	00	11/16/82	0
DETROIT	14	054-83-0672	11/16/82	03/31/87	1596	00	11/16/82	0
DETROIT	14	054-84-2901	08/15/83	05/29/87	1383	00	04/16/84	245
DETROIT	14	054-84-5015	05/24/84	05/29/87	1100	00	09/05/84	106
DETROIT	14	054-84-5294	09/16/84	04/30/87	956	06	09/21/84	5
DETROIT	14	054-84-5295	09/15/84			10	09/21/84	6
DETROIT	14	054-85-0127	10/05/84	11/16/87	1137	00	10/12/84	7
DETROIT	14	054-85-2001	11/20/84	12/12/86	752	00	03/20/85	120
DETROIT	14	054-85-2488	02/28/85	04/30/87	791	00	04/10/85	41
DETROIT	14	054-85-2516	02/07/85	07/31/87	904	00	03/11/85	32
DETROIT	14	054-85-2544	10/13/84	12/10/86	788	00	03/29/85	167
DETROIT	14	054-85-2983	09/30/84	10/16/86	746	00	04/24/85	206
DETROIT	14	054-85-4442	03/15/85			00	07/24/85	131

DETROIT	14	054-85-4542	07/19/85			00	08/09/85	21
DETROIT	14	054-85-4944	08/28/85			11	09/03/85	6
DETROIT	14	054-85-5289	08/12/85	12/14/87	854	17	09/25/85	44
DETROIT	14	054-86-0035	10/02/85			16	10/08/85	6
DETROIT	14	054-86-0110	09/16/85			00	10/02/85	16
DETROIT	14	054-86-1102	10/24/85	01/29/88	827	17	12/19/85	56
DETROIT	14	054-86-1175	09/30/85			00	12/30/85	91
DETROIT	14	054-86-1239	02/01/85	07/31/87	910	00	01/08/86	341
DETROIT	14	054-86-1288	08/01/85			00	01/01/86	153
DETROIT	14	054-86-1616	01/24/86			00	02/06/86	11
DETROIT	14	054-86-1619	09/30/85			00	02/06/86	129
DETROIT	14	054-86-1904	11/12/85			00	02/26/86	106
DETROIT	14	054-86-2301	03/19/86			13	03/20/86	1
DETROIT	14	054-86-2370	01/16/85	01/28/87	742	00	03/25/86	433
DETROIT	14	055-86-0110	07/24/85			00	09/18/86	421
DETROIT	14	071-85-2167	07/09/85	01/29/88	934	07	08/02/85	24
DETROIT	14	071-85-2183	06/10/85	12/08/87	911	07	08/05/85	56
DETROIT	14	071-86-0060	06/28/85			00	10/07/85	101
DETROIT	14	071-86-0296	09/09/85			00	11/18/85	70
DETROIT	14	071-86-0335	10/08/85			00	11/20/85	43
DETROIT	14	071-86-0763	10/02/85			00	01/07/86	97
DETROIT	14	071-86-0766	10/05/85	01/29/88	846	07	01/08/86	95
DETROIT	14	071-86-0788	11/13/85			00	01/13/86	61
DETROIT	14	071-86-0791	10/29/85			00	01/13/86	76
DETROIT	14	071-86-0873	01/02/86			00	01/15/86	13
DETROIT	14	071-86-0929	01/15/86	01/28/88	743	07	01/30/86	15
DETROIT	14	071-86-0942	01/13/86			00	02/04/86	22
DETROIT	14	071-86-0965	01/29/86			00	02/05/86	8
DETROIT	14	071-86-0966	01/31/86			00	02/05/86	5
DETROIT	14	071-86-0967	10/17/85			00	02/05/86	111
DETROIT	14	071-86-0969	01/24/86			00	02/05/86	12
DETROIT	14	071-86-0997	02/15/86			00	02/15/86	0
DETROIT	14	071-86-1053	11/22/85			00	02/18/86	86
DETROIT	14	071-86-1097	02/07/86			00	02/24/86	17
DETROIT	14	071-86-1119	01/09/86			00	02/26/86	48
DETROIT	14	071-86-1122	01/23/86			00	02/26/86	34
DETROIT	14	071-86-1126	06/22/85			00	02/27/86	250
DETROIT	14	071-86-1157	12/31/85			00	03/03/86	62
DETROIT	14	071-86-1201	02/27/86			00	03/07/86	8
DETROIT	14	071-86-1262	11/11/85	11/30/87	749	07	03/13/86	122
DETROIT	14	071-86-1378	10/10/85	01/27/88	839	07	03/31/86	172
DETROIT	14	071-86-1402	12/01/85			00	04/02/86	122
DETROIT	14	071-86-1411	02/07/86			00	04/02/86	54
DETROIT	14	071-86-1459	11/26/85			00	04/08/86	131

DETROIT	14	071-86-1486	12/31/85			00	04/14/86	104
DETROIT	14	071-86-1537	01/10/86	01/29/88	749	07	04/18/86	98
DETROIT	14	071-86-1541	02/24/86			00	04/21/86	56
DETROIT	14	071-86-1676	11/14/85			00	05/09/86	176
DETROIT	14	071-86-1709	01/17/86			00	05/13/86	116
DETROIT	14	071-86-1837	12/15/85			00	05/29/86	165
DETROIT	14	071-86-1842	12/31/85			00	05/29/86	149
DETROIT	14	071-86-1884	01/07/86	01/29/88	752	08	06/04/86	148
DETROIT	14	071-86-1885	01/02/86			00	06/04/86	153
DETROIT	14	071-86-1994	02/06/86			00	06/19/86	133
DETROIT	14	230-86-3590	01/11/84	10/31/86	1024	00	06/24/86	895
DETROIT	14	230-86-3686	12/01/85			00	06/27/86	208
DETROIT	14	230-86-3777	01/01/85	02/27/87	787	00	07/08/86	553
DETROIT	14	230-86-3820	07/24/85			00	07/09/86	350
DETROIT	14	230-86-3830	07/24/85			00	07/09/86	350
DETROIT	14	230-86-3947	01/31/86			00	07/17/86	167
DETROIT	14	230-86-4481	10/01/85			00	08/19/86	322
DETROIT	14	230-86-4483	10/01/85			00	08/19/86	322
DETROIT	14	230-86-4484	10/01/85			00	08/19/86	322
DETROIT	14	230-86-4659	01/08/85			00	09/08/86	608
DETROIT	14	230-86-4749	11/23/84	12/11/86	748	00	09/05/86	651
DETROIT	14	230-87-0512	09/01/85			00	11/12/86	437
DETROIT	14	230-87-0670	02/01/86			00	10/28/86	269
DETROIT	14	230-87-0728	10/01/85			24	12/02/86	427
DETROIT	14	230-87-0937	05/07/85			00	12/15/86	587
DETROIT	14	230-87-0939	05/07/85			00	12/15/86	587
DETROIT	14	230-87-0942	05/07/85			00	12/15/86	587
DETROIT	14	230-87-1136	11/26/85			00	01/07/87	409
DETROIT	14	230-87-1160	01/14/86			00	01/09/87	360
DETROIT	14	230-87-1182	04/05/85			10	12/15/86	621
DETROIT	14	230-87-1928	06/01/85	01/25/88	968	00	03/17/87	654
DETROIT	14	230-87-2051	12/03/85			00	04/22/87	505
DETROIT	14	230-87-2052	11/27/85			00	04/22/87	511
DETROIT	14	230-87-2372	06/01/85	08/31/87	821	00	07/14/87	773
DETROIT	14	281-86-2213	08/05/85	12/17/87	864	08	07/23/86	352
DETROIT	14	281-86-2290	11/22/85	12/29/87	767	08	08/07/86	258
DETROIT	14	281-86-2302	02/26/86			00	08/11/86	166
MEMPHIS	15	015-86-0053	03/01/85			10	10/10/85	223
MEMPHIS	15	015-86-0262	05/20/83	12/28/87	1683	00	11/27/85	922
MEMPHIS	15	015-86-0370	02/05/84	07/24/87	1265	14	12/06/85	670
MEMPHIS	15	015-86-0420	10/31/84	12/09/87	1134	00	01/16/86	442
MEMPHIS	15	015-86-0526	05/21/85	12/16/87	939	12	12/23/85	216
MEMPHIS	15	043-85-0769	02/27/85	05/07/87	799	00	04/01/85	33
MEMPHIS	15	043-85-1096	01/18/85	02/20/87	763	12	07/02/85	165
MEMPHIS	15	043-85-1124	10/13/83			20	07/24/85	650

MEMPHIS	15	043-86-0271	11/17/85	11/30/87	743	00	12/04/85	17
MEMPHIS	15	043-86-0305	07/01/85	02/25/88	969	00	12/24/85	176
MEMPHIS	15	043-86-0499	11/16/85	12/31/87	775	20	02/18/86	94
MEMPHIS	15	043-86-0575	11/24/82			20	03/11/86	1203
MEMPHIS	15	043-86-0578	08/07/80			20	03/11/86	2042
MEMPHIS	15	085-85-1272	05/29/85			00	09/30/85	124
MEMPHIS	15	085-86-0111	05/12/85	12/28/87	960	00	11/06/85	178
MEMPHIS	15	101-86-2181	04/15/85	07/02/87	808	13	04/24/86	374
MEMPHIS	15	250-87-0140	06/17/85	07/29/87	772	13	11/14/86	515
MEMPHIS	15	250-87-0625	08/01/85	09/18/87	778	14	04/23/87	630
MEMPHIS	15	380-86-2230	01/30/85	07/02/87	883	13	04/29/86	454
LITTLE ROCK	16	085-85-0689	03/05/85	05/18/87	804	16	04/15/85	41
LITTLE ROCK	16	085-85-0777	03/25/85	07/31/87	858	17	05/07/85	43
LITTLE ROCK	16	085-85-0846	12/26/84	05/04/87	859	13	05/28/85	153
LITTLE ROCK	16	085-85-0995	04/23/85	07/31/87	829	20	07/09/85	77
LITTLE ROCK	16	085-86-0008	09/01/85	09/04/87	733	00	10/03/85	32
LITTLE ROCK	16	085-86-0466	08/08/85			12	02/06/86	182
LITTLE ROCK	16	085-86-0467	08/08/85			20	02/06/86	182
LITTLE ROCK	16	085-86-1217	09/13/84	02/27/87	897	14	09/08/86	725
LITTLE ROCK	16	251-87-0488	09/24/85	09/30/87	736	15	03/24/87	546
LITTLE ROCK	16	251-87-1206	01/01/86			14	09/29/87	636
NASHVILLE	17	015-85-0383	11/13/84	03/31/87	868	00	12/18/84	35
NASHVILLE	17	015-85-1552	07/31/85	12/17/87	869	00	08/09/85	9
NASHVILLE	17	015-85-1746	01/02/85	09/30/87	1001	00	09/17/85	258
NASHVILLE	17	015-85-1759	03/05/85	06/26/87	843	20	09/19/85	198
NASHVILLE	17	015-86-0043	09/19/85	11/30/87	802	00	10/07/85	18
NASHVILLE	17	015-86-0111	05/01/85	12/30/87	973	00	10/22/85	174
NASHVILLE	17	015-86-0254	06/30/85	09/30/87	822	00	11/19/85	142
NASHVILLE	17	015-86-0339	07/03/85	08/11/87	769	20	12/17/86	532
NASHVILLE	17	015-86-0450	01/21/86			00	01/24/86	3
NASHVILLE	17	015-86-0477	06/15/85	12/17/87	854	00	02/05/86	174
NASHVILLE	17	015-86-0499	01/15/86	01/31/88	746	00	02/06/86	22
NASHVILLE	17	015-86-0522	01/30/86			00	02/13/86	14
NASHVILLE	17	015-86-0524	10/01/85			10	02/14/86	136
NASHVILLE	17	015-86-0530	01/29/86			00	02/19/86	21
NASHVILLE	17	015-86-0539	07/15/85	07/29/87	744	16	12/22/85	160
NASHVILLE	17	015-86-0545	08/26/85	09/14/87	749	00	02/19/86	177
NASHVILLE	17	015-86-0559	07/26/85	07/29/87	733	00	01/27/86	185
NASHVILLE	17	015-86-0604	10/28/85	12/17/87	780	01	02/27/86	122
NASHVILLE	17	015-86-0857	06/19/85	09/30/87	833	12	04/14/86	299
NASHVILLE	17	015-86-0965	09/05/85	12/30/87	846	11	04/30/86	237
NASHVILLE	17	015-86-1042	05/20/85	06/02/87	743	10	05/29/86	374
NASHVILLE	17	015-86-1045	03/22/85	06/30/87	830	10	05/29/86	433
NASHVILLE	17	015-86-1053	08/19/85			03	06/02/86	287

NASHVILLE	17	015-86-1070	01/11/85	05/01/87	840	15	05/21/86	495
NASHVILLE	17	015-86-1133	08/09/85	09/30/87	782	16	06/12/86	307
NASHVILLE	17	015-86-1270	10/14/84	06/05/87	964	14	07/15/86	639
NASHVILLE	17	015-86-1332	12/26/85	12/30/87	734	20	07/22/86	208
NASHVILLE	17	015-86-1341	11/11/85	11/30/87	749	12	07/28/86	259
NASHVILLE	17	015-86-1533	11/18/85			00	07/24/86	248
NASHVILLE	17	253-87-0041	11/01/85	12/17/87	776	13	10/14/86	347
NASHVILLE	17	253-87-0480	07/01/85	12/17/87	899	14	03/23/87	602
NASHVILLE	17	253-87-0485	09/20/85	11/30/87	801	13	02/13/87	511
NASHVILLE	17	253-87-0500	12/07/85	12/17/87	740	13	01/19/87	408
NASHVILLE	17	253-87-0716	12/26/85	01/22/88	757	13	04/29/87	489
NASHVILLE	17	253-87-0764	09/20/85	11/30/87	801	14	03/11/87	537
NASHVILLE	17	253-88-0167	03/18/85			15	10/15/87	941
MIAMI	18	025-85-0365	10/30/84			20	12/12/84	43
MIAMI	18	046-86-0025	08/10/85			20	10/07/87	788
MIAMI	18	046-86-0336	10/07/85			16	12/10/85	64
MIAMI	18	046-86-0893	11/22/85			11	04/07/86	136
MIAMI	18	046-86-0895	11/22/85			11	04/07/86	136
MIAMI	18	046-86-0896	11/22/85			11	04/07/86	136
MIAMI	18	046-86-0982	11/22/85			11	04/07/86	136
MIAMI	18	150-86-1105	11/01/85			01	05/21/86	201
MIAMI	18	150-86-1416	10/09/85			02	02/03/86	117
MIAMI	18	150-87-0703	02/19/86			00	03/02/87	376
MIAMI	18	150-87-0750	06/14/83			15	05/05/87	1360
MIAMI	18	150-87-1122	01/03/86			00	05/11/87	493
MIAMI	18	150-87-1144	09/14/81			15	05/08/87	2062
MIAMI	18	150-87-1489	07/01/85			15	07/01/87	730
MIAMI	18	150-87-1983	01/01/80			15	09/14/87	2813
MIAMI	18	150-88-0172	02/28/86			00	10/27/87	606
MIAMI	18	150-88-0173	02/28/86			00	10/27/87	606
MIAMI	18	150-88-0313	08/01/85			15	11/25/87	846
MIAMI	18	150-88-0316	02/01/86			16	11/24/87	661
MIAMI	18	150-88-0317	08/15/85			15	11/24/87	831
MIAMI	18	150-88-0320	07/01/85			15	11/25/87	877
MIAMI	18	150-88-0418	05/20/82			15	12/04/87	2024
MIAMI	18	150-88-0490	07/01/85			15	12/30/87	912
TAMPA	19	025-85-0340	02/05/84	03/12/87	1131	00	12/07/84	306
TAMPA	19	025-85-0444	12/05/84	12/11/86	736	00	01/07/85	33
TAMPA	19	025-85-0468	01/07/85	02/19/87	773	00	01/07/85	0
TAMPA	19	025-85-0828	05/15/84	04/22/87	1072	13	05/18/85	307
TAMPA	19	025-85-1104	05/01/85			00	05/14/85	74
TAMPA	19	025-85-1131	01/14/85	05/05/87	841	00	05/21/85	127
TAMPA	19	025-85-1213	01/16/85	09/30/87	987	17	06/04/85	139
TAMPA	19	025-85-1215	06/05/85	02/04/88	974	00	06/05/85	0

TAMPA	19	025-85-1247	05/10/85			00	06/11/85	32
TAMPA	19	025-85-1295	02/12/85	06/16/87	854	04	06/21/85	129
TAMPA	19	025-85-1297	08/25/84	03/04/88	1287	13	06/24/85	303
TAMPA	19	025-85-1344	09/17/84			00	07/01/85	287
TAMPA	19	025-85-1400	04/23/85	05/06/87	743	00	07/05/85	73
TAMPA	19	025-85-1485	05/01/85			11	08/02/85	93
TAMPA	19	025-85-1508	11/06/84	09/03/87	1031	16	08/06/85	273
TAMPA	19	025-85-1538	04/12/85			00	08/08/85	118
TAMPA	19	025-85-1604	08/08/85	08/17/87	739	00	08/26/85	18
TAMPA	19	025-85-1620	06/07/85			00	08/28/85	82
TAMPA	19	025-86-0157	08/13/85			17	10/28/85	76
TAMPA	19	025-86-0250	11/29/85			00	11/29/85	0
TAMPA	19	025-86-0266	12/02/85			00	12/02/85	0
TAMPA	19	025-86-0323	11/21/85			00	12/16/85	25
TAMPA	19	025-86-0337	11/27/85			00	12/18/85	21
TAMPA	19	025-86-0365	10/01/85			13	12/03/85	63
TAMPA	19	025-86-0400	11/01/85	12/15/87	774	13	01/20/87	445
TAMPA	19	025-86-0473	09/01/85			16	01/30/86	151
TAMPA	19	025-86-0645	02/28/86	02/17/88	719	00	03/20/86	20
TAMPA	19	025-86-0673	12/02/85			00	03/28/86	116
TAMPA	19	025-86-0696	11/01/85			00	04/03/86	153
TAMPA	19	025-86-0702	03/01/86	12/31/87	670	13	03/31/86	30
TAMPA	19	025-86-0708	10/11/85	12/31/87	811	00	04/02/86	173
TAMPA	19	025-86-0785	11/30/85			00	04/18/86	139
TAMPA	19	025-86-0853	11/29/85	02/18/88	811	00	02/07/86	70
TAMPA	19	025-86-0870	11/15/83			00	05/06/84	172
TAMPA	19	025-86-0888	10/01/84	09/30/87	364	14	05/08/86	584
TAMPA	19	025-86-0901	04/28/86	09/01/87	491	00	05/13/86	15
TAMPA	19	025-86-1121	09/13/85			00	06/30/86	290
TAMPA	19	025-87-0509	10/01/86	12/31/87	456	14	02/13/87	135
TAMPA	19	151-87-0574	02/11/85	09/30/87	961	07	04/22/85	70
NEW ORLEANS	20	071-86-0879	01/17/86			17	01/24/86	7
NEW ORLEANS	20	071-86-1196	11/25/85	02/10/88	807	20	03/06/86	101
NEW ORLEANS	20	071-86-1427	07/08/85	02/10/88	947	07	03/31/86	266
NEW ORLEANS	20	270-85-1729	03/01/85	12/19/86	658	23	05/21/85	81
NEW ORLEANS	20	270-86-2088	07/10/85	07/24/87	744	00	07/21/86	376
NEW ORLEANS	20	270-87-0653	01/02/85	09/21/87	992	00	01/16/87	744
NEW ORLEANS	20	281-86-2672	02/07/86	02/10/88	733	20	09/04/86	209
NEW ORLEANS	20	281-86-2695	07/31/85	02/02/88	916	17	09/15/86	411
NEW YORK	21	011-82-3267	08/04/82			20	09/03/82	30
NEW YORK	21	011-86-0998	04/17/85			00	12/23/85	250
NEW YORK	21	011-86-2140	10/04/85			00	04/01/86	179
NEW YORK	21	011-86-2625	11/02/85			00	05/14/86	193

District Office	Code	Charge Number	Violation Date	Closure Date	# Days	Reason Code	Date Received	# Days After
NEW YORK	21	021-84-0030	09/23/83			20	10/05/83	12
NEW YORK	21	021-84-1739	02/27/84	03/19/87	1116	24	02/27/84	0
NEW YORK	21	021-84-1740	02/27/84	03/19/87	1116	24	02/27/84	0
NEW YORK	21	021-84-1741	02/27/84	03/19/87	1116	24	02/27/84	0
NEW YORK	21	021-84-2801	01/11/84			25	05/14/84	124
NEW YORK	21	021-84-2811	02/27/84	03/19/87	1116	24	05/15/84	78
NEW YORK	21	021-84-3394	02/22/84	01/23/87	1066	11	06/21/84	120
NEW YORK	21	021-84-3711	01/27/84	06/29/87	1249	03	07/13/84	168
NEW YORK	21	021-84-3712	01/27/84	06/29/87	1249	03	07/13/84	168
NEW YORK	21	021-85-0484	01/11/84			25	11/16/84	310
NEW YORK	21	021-85-0544	10/03/84	10/30/86	757	11	11/28/84	56
NEW YORK	21	021-85-0556	06/18/84			25	11/16/84	151
NEW YORK	21	021-85-0557	06/18/84			25	11/16/84	151
NEW YORK	21	021-85-0643	09/01/84			25	12/06/84	96
NEW YORK	21	021-85-0897	07/23/84	03/25/87	975	11	01/08/85	169
NEW YORK	21	021-85-1250	05/30/84	11/19/86	964	16	11/15/85	595
NEW YORK	21	021-85-1891	01/14/85			21	02/12/85	29
NEW YORK	21	021-85-2128	06/01/83	05/05/87	1434	15	01/27/86	971
NEW YORK	21	021-85-3874	11/08/85			01	04/08/86	151
NEW YORK	21	021-85-4676	02/15/83			00	07/10/85	876
NEW YORK	21	021-85-4897	05/22/85	07/30/87	799	20	07/24/85	63
NEW YORK	21	021-85-5034	01/08/85	08/20/87	954	00	08/08/85	212
NEW YORK	21	021-85-5035	01/08/85	02/11/87	764	02	08/08/85	212
NEW YORK	21	021-85-5203	07/01/85	09/29/87	820	01	08/26/85	56
NEW YORK	21	021-85-5298	07/01/85	09/29/87	820	01	08/26/85	56
NEW YORK	21	021-85-5299	07/01/85	09/29/87	820	01	08/26/85	56
NEW YORK	21	021-85-5300	07/01/85	09/29/87	820	01	08/26/85	56
NEW YORK	21	021-85-5301	07/01/85	09/29/87	820	01	08/26/85	56
NEW YORK	21	021-85-5302	07/01/85	09/29/87	820	01	08/26/85	56
NEW YORK	21	021-85-5856	07/01/85	09/29/87	820	01	08/26/85	56
NEW YORK	21	021-85-5857	07/01/85	09/29/87	820	01	08/26/85	56
NEW YORK	21	021-86-0642	07/01/85	09/29/87	820	01	11/01/85	123
NEW YORK	21	021-86-0997	08/01/85			24	12/08/87	859
NEW YORK	21	021-86-1059	08/01/85			24	12/08/87	859
NEW YORK	21	021-86-1303	08/01/85			24	12/08/87	859
NEW YORK	21	021-86-1780	01/13/83	03/19/87	1526	24	01/06/86	1089
NEW YORK	21	021-86-1781	01/13/83	03/19/87	1526	24	01/06/86	1089
NEW YORK	21	021-86-1782	01/13/83	03/19/87	1526	24	01/06/86	1089
NEW YORK	21	021-86-1783	01/13/84	03/19/87	1161	24	01/06/86	724
NEW YORK	21	021-86-1784	01/13/84	03/19/87	1161	24	01/06/86	724
NEW YORK	21	021-86-1785	01/13/84	03/19/87	1161	24	01/06/86	724
NEW YORK	21	021-86-2293	01/13/84	03/24/87	1166	24	02/04/86	753
NEW YORK	21	021-86-2294	01/13/84	03/24/87	1166	24	02/04/86	753

NEW YORK	21	021-86-2295	01/13/84	03/24/87	1166	24	02/04/86	753
NEW YORK	21	021-86-2412	04/26/85			16	02/10/86	290
NEW YORK	21	021-86-2819	01/13/84			24	03/03/86	780
NEW YORK	21	021-86-2827	01/13/84			24	03/03/86	780
NEW YORK	21	021-86-2837	01/13/84			24	03/03/86	780
NEW YORK	21	021-86-3405	06/30/85			01	03/19/86	262
NEW YORK	21	021-86-3631	01/13/84			24	03/27/86	804
NEW YORK	21	021-86-4021	01/13/84			24	04/14/86	822
NEW YORK	21	021-86-4022	01/13/84			24	04/01/86	809
NEW YORK	21	021-86-4071	04/26/85			16	02/10/86	290
NEW YORK	21	021-86-4265	04/22/86			00	04/24/86	2
NEW YORK	21	021-86-4314	11/01/85	12/11/87	770	11	04/28/86	178
NEW YORK	21	021-86-4330	01/31/85			20	05/01/86	455
NEW YORK	21	023-85-0398	11/30/84	03/03/87	823	07	04/23/86	509
NEW YORK	21	023-85-0452	12/12/84	03/04/87	812	07	12/17/84	5
NEW YORK	21	023-85-0453	12/12/84	03/04/87	812	07	12/17/84	5
NEW YORK	21	023-85-1054	06/28/85			01	06/28/85	0
NEW YORK	21	023-85-1057	02/01/85	05/19/87	837	07	09/06/85	217
NEW YORK	21	023-86-0048	11/01/85			01	11/18/85	17
NEW YORK	21	023-86-0075	10/15/85			00	12/17/85	63
NEW YORK	21	023-86-0105	08/25/85			00	02/04/86	163
NEW YORK	21	023-86-0106	09/06/85			00	02/05/86	152
NEW YORK	21	023-86-0117	12/18/85			11	02/20/86	64
NEW YORK	21	023-86-0137	12/06/85			00	10/22/86	320
NEW YORK	21	061-84-2741	02/28/84	06/29/87	1217	03	07/06/84	129
NEW YORK	21	061-84-3714	01/27/84	06/29/87	1249	03	07/13/84	168
NEW YORK	21	064-86-0909	08/01/85			24	12/08/87	859
NEW YORK	21	064-86-0974	08/01/85			24	12/08/87	859
NEW YORK	21	064-86-0998	08/01/85			24	12/08/87	859
NEW YORK	21	064-86-1465	08/01/85			24	12/08/87	859
NEW YORK	21	160-85-5324	03/22/85			00	08/29/85	160
NEW YORK	21	160-85-5485	09/05/85			13	09/05/86	365
NEW YORK	21	160-86-3381	08/19/85			01	08/22/86	368
NEW YORK	21	160-86-4642	01/28/86			01	05/02/86	94
NEW YORK	21	160-86-4669	01/26/85			21	12/01/87	1039
NEW YORK	21	160-86-4717	11/30/85			01	05/14/86	165
NEW YORK	21	160-86-5009	12/31/85	01/12/88	742	20	07/02/86	183
NEW YORK	21	160-86-5078	09/19/85	10/15/87	756	02	07/08/86	292
NEW YORK	21	160-86-5079	03/31/85	05/15/87	775	02	07/08/86	464
NEW YORK	21	160-86-5119	12/02/85			01	07/15/86	225
NEW YORK	21	160-86-5135	12/02/85			01	07/15/86	225
NEW YORK	21	160-86-5229	01/13/84			24	07/30/86	929
NEW YORK	21	160-86-5283	01/14/85			00	08/08/86	571
NEW YORK	21	160-86-5327	10/25/85			16	08/15/86	294
NEW YORK	21	160-86-5398	12/32/85			01	07/15/86	225

NEW YORK	21	160-86-5462	05/08/85			13	08/29/86	478
NEW YORK	21	160-86-5519	12/03/85			12	09/12/86	283
NEW YORK	21	160-86-5546	11/11/84			12	07/11/86	607
NEW YORK	21	160-87-0473	12/10/84			15	12/09/86	729
NEW YORK	21	160-87-0583	01/03/85			00	11/03/87	1034
NEW YORK	21	160-87-0901	08/17/85			16	03/20/87	580
NEW YORK	21	160-87-1202	05/10/85	07/31/85	82	07	04/28/87	718
NEW YORK	21	160-87-1203	02/17/86			13	04/28/87	435
NEW YORK	21	160-87-1361	11/12/85			20	05/20/87	554
NEW YORK	21	160-87-1443	01/01/85			00	06/04/87	884
NEW YORK	21	160-87-2018	11/12/85			20	08/11/87	637
NEW YORK	21	160-87-2054	12/31/85			14	08/17/87	594
NEW YORK	21	160-87-2099	08/19/85			00	08/21/87	742
NEW YORK	21	160-87-2111	10/14/85			14	08/24/86	214
NEW YORK	21	161-86-1564	10/01/85			00	07/17/86	289
NEW YORK	21	161-86-3362	10/01/85			00	07/01/86	273
NEW YORK	21	165-86-0374	06/10/85			13	04/24/87	683
NEW YORK	21	165-87-0002	12/10/85			12	10/06/86	300
BOSTON	22	011-86-0998	04/17/85	01/29/88	1017	11	07/17/86	456
BOSTON	22	011-86-1564	09/15/85	01/22/88	859	00	05/14/86	241
BOSTON	22	011-86-2140	10/04/85	01/22/88	840	00	12/23/85	80
BOSTON	22	011-86-2625	11/02/85	01/07/88	796	17	04/01/86	150
BOSTON	22	161-86-3342	10/01/85	01/29/88	850	17	07/08/86	280
BUFFALO	23	023-83-1615	05/31/83	05/05/87	1435	00	08/01/83	62
BUFFALO	23	023-84-1521	11/13/83	09/24/87	1411	00	07/17/84	247
BUFFALO	23	023-84-1522	11/13/83	09/24/87	1411	00	07/17/84	247
BUFFALO	23	023-85-0088	12/18/84	03/31/87	833	00	10/06/86	657
BUFFALO	23	023-85-0132	05/01/84	04/02/87	1066	02	10/19/84	171
BUFFALO	23	023-85-0133	05/01/84	04/02/87	1066	02	10/19/84	171
BUFFALO	23	023-85-0877	03/11/85	11/24/86	623	00	03/12/85	1
BUFFALO	23	023-85-0928	12/31/84	06/29/87	910	11	03/25/85	84
BUFFALO	23	023-85-1025	03/31/85	04/24/87	754	10	07/30/85	121
BUFFALO	23	023-85-1026	03/31/85	04/24/87	754	10	07/30/85	121
BUFFALO	23	023-85-1070	12/13/84	02/17/87	796	20	09/27/85	288
BUFFALO	23	023-86-0014	08/01/85	09/29/87	789	10	10/17/85	77
BUFFALO	23	023-86-0016	08/01/85	09/29/87	789	10	10/17/85	77
BUFFALO	23	023-86-0017	08/01/85	09/29/87	789	10	10/17/85	77
BUFFALO	23	023-86-0022	08/01/85	09/29/87	789	10	10/17/85	77
BUFFALO	23	023-86-0028	08/01/85	09/29/87	789	10	10/17/85	77
BUFFALO	23	023-86-0064	10/15/85	10/19/87	734	00	12/04/85	50
BUFFALO	23	023-86-0084	08/01/85	09/29/87	789	10	10/30/85	90
BUFFALO	23	023-86-0091	02/01/85	03/11/87	768	20	01/09/86	342
BUFFALO	23	023-86-0115	06/21/83	11/05/86	1172	15	02/19/86	913
BUFFALO	23	023-86-0122	03/08/84	11/24/86	991	14	03/05/86	727

BUFFALO	23	023-86-0135	03/01/85	04/30/87	790	10	03/20/86	384
BUFFALO	23	023-86-0147	09/01/83	01/30/87	1247	15	05/27/86	938
BUFFALO	23	023-86-0162	01/01/85	09/29/87	881	10	04/14/86	350
BUFFALO	23	023-86-1040	08/10/84	11/05/86	817	14	11/05/86	817
BUFFALO	23	165-86-0147	01/01/84	09/30/87	1368	10	05/07/86	857
BUFFALO	23	165-86-0211	01/01/84	09/30/87	1368	15	05/27/86	877
BUFFALO	23	165-86-0229	03/31/85	09/24/87	907	13	05/12/86	407
BUFFALO	23	165-86-0230	03/31/85	09/24/87	907	13	05/12/86	407
BUFFALO	23	165-86-0373	06/08/85	09/30/87	844	06	07/11/86	398
BUFFALO	23	165-86-0586	07/01/86	09/30/87	456	00	08/08/86	38
BUFFALO	23	165-86-0592	06/10/82	10/23/84	1596	15	08/25/86	1537
BUFFALO	23	165-86-0602	06/12/82	06/25/87	1862	15	08/25/86	1596
BUFFALO	23	165-87-0025	10/01/84	05/06/87	947	13	11/12/86	772
BUFFALO	23	168-87-0062	01/01/80	06/07/87	2653	10	07/17/84	1659
PHILADELPHIA	24	022-83-0427	02/25/83	01/02/87	1407	24	03/09/83	12
PHILADELPHIA	24	022-83-0787	01/10/83	01/12/87	1463	24	07/13/83	184
PHILADELPHIA	24	022-85-0436	12/01/84	01/12/87	772	24	02/21/85	82
PHILADELPHIA	24	022-85-0570	10/08/84	07/31/87	1026	07	04/04/85	178
PHILADELPHIA	24	022-85-0719	02/04/84	12/30/87	1425	11	06/04/85	486
PHILADELPHIA	24	022-85-0753	02/04/85	12/30/87	1059	11	06/13/85	129
PHILADELPHIA	24	022-86-0161	05/17/85	02/10/88	999	17	12/05/85	202
PHILADELPHIA	24	031-84-0311	04/15/83	01/22/87	1378	24	11/07/83	206
PHILADELPHIA	24	031-84-1042	11/28/83	09/29/87	1401	11	01/11/84	44
PHILADELPHIA	24	031-84-1043	11/28/83	09/29/87	1401	11	01/11/84	44
PHILADELPHIA	24	031-84-1044	11/28/83	09/29/87	1401	11	01/11/84	44
PHILADELPHIA	24	031-84-1045	11/28/83	09/29/87	1401	11	01/11/84	44
PHILADELPHIA	24	031-84-3297	01/24/84	09/30/87	1345	20	06/25/84	153
PHILADELPHIA	24	031-84-3632	05/25/84	04/19/87	1059	24	07/14/84	50
PHILADELPHIA	24	031-84-3639	05/25/84	02/27/87	1008	24	07/14/84	50
PHILADELPHIA	24	031-84-3640	05/25/84	02/27/87	1008	24	07/14/84	50
PHILADELPHIA	24	031-84-3641	05/25/84	02/27/87	1008	24	07/14/84	50
PHILADELPHIA	24	031-84-3642	05/25/84	02/27/87	1008	24	07/14/84	50
PHILADELPHIA	24	031-84-3643	05/25/84	02/27/87	1008	24	07/14/84	50
PHILADELPHIA	24	031-84-3644	05/25/84	02/27/87	1008	24	07/14/84	50
PHILADELPHIA	24	031-84-3688	01/01/84	11/05/87	1400	24	07/17/84	194
PHILADELPHIA	24	031-85-0160	12/31/83	10/31/86	1035	17	10/22/84	296
PHILADELPHIA	24	031-85-0232	07/01/84	04/19/87	1022	24	10/29/84	120
PHILADELPHIA	24	031-85-0888	09/01/85	09/30/87	759	00	12/19/85	109
PHILADELPHIA	24	031-85-0950	09/29/85	12/11/87	823	15	01/05/87	463
PHILADELPHIA	24	031-85-0954	11/18/85	12/30/87	772	00	12/11/85	23
PHILADELPHIA	24	031-85-1139	11/28/84	09/30/87	1034	05	01/09/85	42
PHILADELPHIA	24	031-85-1270	04/02/84	12/01/86	973	00	01/11/85	284
PHILADELPHIA	24	031-85-1440	10/29/84	09/29/87	1065	11	01/30/85	93
PHILADELPHIA	24	031-85-1441	10/29/84	09/29/87	1065	11	01/30/85	93

PHILADELPHIA	24	031-85-1462	10/29/84	09/29/87	1065	11	01/30/85	93
PHILADELPHIA	24	031-85-1463	10/29/84	09/29/87	1065	11	01/30/85	93
PHILADELPHIA	24	031-85-1464	10/29/84	09/29/87	1065	11	01/30/85	93
PHILADELPHIA	24	031-85-1465	10/29/84	09/29/87	1065	11	01/30/85	93
PHILADELPHIA	24	031-85-1466	10/29/84	09/29/87	1065	11	01/30/85	93
PHILADELPHIA	24	031-85-1467	10/29/84	09/29/87	1065	11	01/30/85	93
PHILADELPHIA	24	031-85-1468	10/29/84	09/29/87	1065	11	01/30/85	93
PHILADELPHIA	24	031-85-1469	10/29/84	09/29/87	1065	11	01/30/85	93
PHILADELPHIA	24	031-85-1470	10/29/84	09/29/87	1065	11	01/30/85	93
PHILADELPHIA	24	031-85-1471	10/29/84	09/29/87	1065	11	01/30/85	93
PHILADELPHIA	24	031-85-1472	10/29/84	09/29/87	1065	11	01/30/85	93
PHILADELPHIA	24	031-85-1473	10/29/84	09/29/87	1065	11	01/30/85	93
PHILADELPHIA	24	031-85-1474	10/29/84	09/29/87	1065	11	01/30/85	93
PHILADELPHIA	24	031-85-1475	10/29/84	09/29/87	1065	11	01/30/85	93
PHILADELPHIA	24	031-85-1476	10/29/84	09/29/87	1065	11	01/30/85	93
PHILADELPHIA	24	031-85-1477	10/29/84	09/29/87	1065	11	01/30/85	93
PHILADELPHIA	24	031-85-1478	10/29/84	09/29/87	1065	11	01/30/85	93
PHILADELPHIA	24	031-85-1479	10/29/84	09/29/87	1065	11	01/30/85	93
PHILADELPHIA	24	031-85-1663	09/01/84	02/20/87	902	00	02/13/85	165
PHILADELPHIA	24	031-85-2003	10/01/84	12/22/87	1177	20	03/11/85	161
PHILADELPHIA	24	031-85-2147	03/05/85			10	03/13/85	8
PHILADELPHIA	24	031-85-2905	02/22/85	11/02/87	983	16	05/06/85	73
PHILADELPHIA	24	031-85-3138	03/21/85	01/21/88	1036	05	05/17/85	57
PHILADELPHIA	24	031-85-3141	08/14/84	07/01/87	1051	16	05/17/85	276
PHILADELPHIA	24	031-85-3228	05/21/85	01/29/88	983	14	01/16/87	605
PHILADELPHIA	24	031-85-4072	02/28/85	12/22/87	1027	15	12/04/87	1009
PHILADELPHIA	24	031-85-4442	10/21/85	12/30/87	800	11	08/15/86	298
PHILADELPHIA	24	031-85-4837	05/21/85	07/13/87	783	24	07/07/85	47
PHILADELPHIA	24	031-85-5211	07/20/84	11/13/86	846	14	04/28/86	647
PHILADELPHIA	24	031-85-5367	03/29/85	08/20/87	874	21	09/27/85	182
PHILADELPHIA	24	031-86-0406	09/20/85	11/10/87	781	20	10/20/85	30
PHILADELPHIA	24	031-86-0421	03/01/85	07/31/87	882	10	10/25/85	238
PHILADELPHIA	24	031-86-0724	09/28/85	12/11/87	804	00	11/20/85	53
PHILADELPHIA	24	031-86-0760	05/01/85	06/24/87	784	24	11/27/85	210
PHILADELPHIA	24	031-86-1190	06/03/85			16	01/09/86	220
PHILADELPHIA	24	031-86-1193	11/26/85			16	01/08/86	43
PHILADELPHIA	24	031-86-1260	06/01/85			16	01/13/86	165
PHILADELPHIA	24	031-86-1266	07/12/85	02/25/88	958	24	01/02/86	174
PHILADELPHIA	24	031-86-1420	12/06/85	01/29/88	784	16	01/24/86	49
PHILADELPHIA	24	031-86-2407	12/01/85			16	03/27/86	116
PHILADELPHIA	24	031-86-2551	07/15/85			16	04/09/86	268
PHILADELPHIA	24	031-86-2556	10/01/85			16	04/09/86	190
PHILADELPHIA	24	031-86-2576	11/15/85	11/25/87	740	00	04/14/86	150
PHILADELPHIA	24	031-86-2801	07/02/85	08/31/87	790	16	04/22/86	294
PHILADELPHIA	24	031-86-2802	11/04/85			24	04/23/86	170

PHILADELPHIA	24	031-86-3074	02/15/85	06/01/87	836	17	04/23/86	432
PHILADELPHIA	24	051-85-0909	08/28/84	01/12/87	867	24	10/30/84	63
PHILADELPHIA	24	061-85-3606	09/19/85	11/10/87	782	24	09/24/85	5
PHILADELPHIA	24	083-86-0360	08/23/85	09/27/87	765	05	12/17/85	116
PHILADELPHIA	24	131-84-1487	04/01/83	11/24/87	1698	16	01/27/84	301
PHILADELPHIA	24	131-84-3327	01/27/84	02/11/87	1111	16	06/29/34	154
PHILADELPHIA	24	131-85-0777	05/20/84	11/24/87	1283	16	11/30/84	194
PHILADELPHIA	24	131-85-1490	10/29/84	09/29/87	1065	11	01/28/85	91
PHILADELPHIA	24	131-85-2680	07/31/84	12/04/87	1221	16	04/19/85	262
PHILADELPHIA	24	131-85-3157	06/05/84	02/18/88	1353	16	05/21/85	350
PHILADELPHIA	24	131-85-3867	02/08/85	03/19/87	769	14	11/10/86	640
PHILADELPHIA	24	131-85-3966	07/03/85	09/30/87	819	02	07/21/85	18
PHILADELPHIA	24	131-85-4463	04/26/85	09/20/87	877	24	08/08/85	104
PHILADELPHIA	24	131-85-5306	01/31/84	11/13/86	1017	14	09/24/85	602
PHILADELPHIA	24	131-86-0359	03/12/85	04/23/87	772	13	04/28/86	412
PHILADELPHIA	24	131-86-0408	04/29/85	04/30/87	731	00	10/30/85	184
PHILADELPHIA	24	131-86-0638	01/01/84	03/24/87	1178	14	11/14/85	683
PHILADELPHIA	24	131-86-0727	02/18/85	03/05/87	745	17	11/16/85	271
PHILADELPHIA	24	131-86-1063	05/01/85	11/13/87	926	00	12/17/85	230
PHILADELPHIA	24	131-86-1377	03/08/85	09/16/87	922	00	01/24/86	322
PHILADELPHIA	24	131-86-2553	06/01/85	02/17/88	991	00	04/09/56	312
PHILADELPHIA	24	131-86-2785	05/02/85	01/22/88	995	01	04/21/86	354
PHILADELPHIA	24	131-86-2820	06/20/85	10/14/87	846	14	03/27/87	643
PHILADELPHIA	24	170-86-2906	07/01/84	09/22/87	1178	14	05/01/86	669
PHILADELPHIA	24	170-86-3226	09/01/85	04/27/87	968	14	05/20/86	626
PHILADELPHIA	24	170-86-3550	10/03/85			12	06/11/86	251
PHILADELPHIA	24	170-86-3559	03/15/85			05	06/05/86	447
PHILADELPHIA	24	170-86-3585	11/08/84			14	06/16/86	585
PHILADELPHIA	24	170-86-3623	01/17/86			00	06/19/86	153
PHILADELPHIA	24	170-86-3782	11/27/85			11	06/24/86	209
PHILADELPHIA	24	170-86-3783	11/27/85			11	06/24/86	209
PHILADELPHIA	24	170-86-3784	11/27/85			11	06/24/86	209
PHILADELPHIA	24	170-86-3878	09/26/85			12	07/01/86	278
PHILADELPHIA	24	170-86-3903	10/25/84	04/08/87	895	14	07/11/86	626
PHILADELPHIA	24	170-86-3915	01/14/86	01/29/88	745	00	07/15/87	547
PHILADELPHIA	24	170-86-3974	05/01/85	09/03/87	853	13	07/15/85	75
PHILADELPHIA	24	170-86-3975	08/01/85	09/03/87	763	13	07/11/86	344
PHILADELPHIA	24	170-86-4149	12/31/84	01/21/87	751	14	07/28/86	574
PHILADELPHIA	24	170-86-4340	01/01/84	03/24/87	1178	15	08/04/86	946
PHILADELPHIA	24	170-86-4380	02/03/86			13	04/28/87	449
PHILADELPHIA	24	170-86-4516	05/14/85	02/24/88	1016	13	09/25/86	499
PHILADELPHIA	24	170-86-4624	12/31/83	11/06/86	1041	15	09/05/86	977
PHILADELPHIA	24	170-86-4630	09/21/84	05/19/87	909	14	09/04/86	713
PHILADELPHIA	24	170-86-4858	01/26/86	01/25/88	734	20	09/25/86	244

PHILADELPHIA	24	170-86-4888	04/15/85	01/20/88	1010	13	09/22/86	525
PHILADELPHIA	24	170-86-4936	06/28/85	08/18/87	781	13	09/24/86	453
PHILADELPHIA	24	170-86-4969	12/15/85	01/11/88	757	05	09/25/86	284
PHILADELPHIA	24	170-86-5061	08/17/84	10/16/87	1155	15	09/29/86	773
PHILADELPHIA	24	170-86-5122	03/01/86			14	09/09/87	557
PHILADELPHIA	24	170-87-0001	11/09/83			10	10/01/86	1057
PHILADELPHIA	24	170-87-0012	01/01/85	09/01/87	973	14	10/06/86	643
PHILADELPHIA	24	170-87-0199	01/01/84	04/15/87	1200	15	10/22/86	1025
PHILADELPHIA	24	170-87-0245	12/31/85			00	10/23/86	296
PHILADELPHIA	24	170-87-0708	12/01/85			13	12/04/86	348
PHILADELPHIA	24	170-87-1001	01/31/86			13	01/12/87	346
PHILADELPHIA	24	170-87-1520	03/31/85	01/29/88	1034	14	02/24/87	695
PHILADELPHIA	24	170-87-1524	04/01/85	01/14/88	1018	14	03/03/87	701
PHILADELPHIA	24	170-87-1731	10/15/85			13	03/16/87	517
PHILADELPHIA	24	170-87-1732	01/01/84			15	03/17/87	1171
PHILADELPHIA	24	170-87-1837	01/31/86			13	03/19/87	412
PHILADELPHIA	24	170-87-2205	06/28/85	08/18/87	781	14	04/13/87	654
PHILADELPHIA	24	170-87-3158	07/14/84	08/24/87	1136	13	06/24/87	1075
PHILADELPHIA	24	170-87-3232	11/22/85	[illegible]	[illegible]	13	06/30/87	588
PHILADELPHIA	24	170-87-3259	03/04/85	08/01/87	880	15	07/06/87	854
PHILADELPHIA	24	170-87-3422	06/30/85			13	11/10/87	863
PHILADELPHIA	24	170-87-3662	10/30/84			15	07/29/87	1002
PHILADELPHIA	24	170-88-0039	02/28/86	02/29/88	731	14	10/20/87	599
PHILADELPHIA	24	170-88-0073	10/28/85			13	10/26/87	728
PHILADELPHIA	24	170-88-0074	10/15/85			15	10/26/87	741
PHILADELPHIA	24	170-88-0075	10/15/85			15	10/26/87	741
PHILADELPHIA	24	170-88-0076	10/31/85			15	10/26/87	725
PHILADELPHIA	24	170-88-0168	01/01/84			15	11/18/87	1417
PHILADELPHIA	24	170-88-0275	04/18/84	02/22/88	1405	15	11/30/87	1321
PHILADELPHIA	24	170-88-0429	01/20/86			14	12/16/87	695
PHILADELPHIA	24	170-88-0437	01/26/84	02/25/88	1491	15	11/19/87	1395
PHILADELPHIA	24	171-82-2627	01/01/82			18	06/18/85	1264
PHILADELPHIA	24	171-85-2608	04/12/85			24	04/16/85	4
PHILADELPHIA	24	171-85-4485	07/26/85			00	08/08/85	13
PHILADELPHIA	24	171-86-1926	08/12/85			11	07/18/86	340
PHILADELPHIA	24	171-87-0452	01/28/86			13	04/27/87	454
PHILADELPHIA	24	171-87-0459	01/28/86	02/04/88	737	14	11/17/86	293
PHILADELPHIA	24	311-86-1263	08/23/85	09/22/87	760	14	05/12/87	627
NEWARK	25	025-84-0364	01/23/84	12/07/87	1414	00	02/23/84	31
NEWARK	25	025-85-0075	06/09/84	05/02/85	327	17	10/20/84	133
NEWARK	25	025-85-0086	08/09/84	09/30/87	1147	16	10/23/84	75
NEWARK	25	025-85-0099	08/09/84	12/07/87	1215	16	10/23/84	75
NEWARK	25	025-85-0459	01/23/84	01/08/88	1446	00	02/23/84	31
NEWARK	25	025-85-0643	01/14/85	02/19/87	766	00	04/12/85	88

NEWARK	25	025-85-0763	05/17/85			00	06/17/85	31
NEWARK	25	025-85-0854	12/01/84	02/09/87	800	17	06/06/85	185
NEWARK	25	025-85-0900	02/04/85	04/29/87	814	20	07/30/85	176
NEWARK	25	025-85-0965	04/24/85			21	08/29/85	127
NEWARK	25	025-86-0033	01/23/85	02/09/87	747	20	10/14/85	264
NEWARK	25	025-86-0234	05/14/85			12	01/17/86	248
NEWARK	25	025-86-0324	12/31/84	02/24/87	785	13	03/13/86	437
NEWARK	25	025-86-0330	07/01/85	09/30/87	821	22	03/31/86	273
NEWARK	25	025-86-0338	10/01/85			00	03/21/86	171
NEWARK	25	025-86-0374	07/30/85	12/31/87	884	12	03/29/86	242
NEWARK	25	025-86-0402	10/29/85	01/22/88	815	12	04/07/86	160
NEWARK	25	025-86-0422	12/14/85			00	03/10/86	86
NEWARK	25	025-86-0488	08/25/85	01/13/88	871	00	01/05/86	133
NEWARK	25	025-86-0489	12/30/85			12	05/02/86	123
NEWARK	25	025-86-0586	10/02/85	01/19/88	839	20	06/19/86	260
NEWARK	25	025-86-0610	10/15/85			12	06/27/86	255
NEWARK	25	025-86-0618	10/06/84	06/30/87	997	14	06/30/86	632
NEWARK	25	025-86-0648	08/12/85			12	07/23/86	345
NEWARK	25	025-86-0707	12/16/85			12	07/24/86	220
NEWARK	25	025-86-3338	05/21/85	11/30/87	923	12	03/31/86	314
NEWARK	25	025-87-0725	06/01/85			15	09/21/87	842
PITTSBURGH	26	034-83-0074	08/08/82	12/31/86	1406	20	10/06/82	59
PITTSBURGH	26	034-83-0625	09/10/82	04/01/87	1464	18	10/26/82	46
PITTSBURGH	26	034-83-0675	01/03/83	04/15/87	1563	18	01/21/83	18
PITTSBURGH	26	034-83-0785	01/01/83			20	02/14/83	44
PITTSBURGH	26	034-83-1313	07/11/83	08/11/87	1492	14	07/11/83	0
PITTSBURGH	26	034-83-1672	02/02/83	06/01/87	1549	18	05/05/83	92
PITTSBURGH	26	034-83-2408	08/20/85			00	08/20/85	0
PITTSBURGH	26	034-84-0544	02/01/83	07/29/87	1639	12	11/21/83	293
PITTSBURGH	26	034-84-1073	03/01/84			10	03/01/84	0
PITTSBURGH	26	034-84-1128	09/22/82			20	03/12/84	537
PITTSBURGH	26	034-84-1161	01/16/84	01/20/87	1100	18	03/14/84	58
PITTSBURGH	26	034-84-1950	02/01/84			00	07/17/84	167
PITTSBURGH	26	034-84-2067	07/30/84	04/27/87	1001	18	08/08/84	9
PITTSBURGH	26	034-84-2114	04/25/84	04/27/87	1097	00	08/17/84	114
PITTSBURGH	26	034-84-2241	11/18/83	05/27/87	1286	18	08/27/84	283
PITTSBURGH	26	034-84-2376	06/27/84	03/31/87	1007	18	09/26/84	91
PITTSBURGH	26	034-85-0084	06/28/84	04/24/87	1030	18	10/17/84	111
PITTSBURGH	26	034-85-0277	03/16/84	11/04/86	963	00	11/13/84	242
PITTSBURGH	26	034-85-0285	05/15/84	08/31/87	1203	16	01/25/85	253
PITTSBURGH	26	034-85-0286	05/01/84	08/31/87	1217	16	01/25/85	269
PITTSBURGH	26	034-85-0394	10/06/84			00	12/17/84	72

District Office	Code	Charge Number	Violation Date	Closure Date	# Days	Reason Code	Date Received	# Days After
PITTSBURGH	26	034-85-0530	11/07/84	12/31/87	1149	18	12/26/84	49
PITTSBURGH	26	034-85-1250	02/04/85			18	02/07/85	3
PITTSBURGH	26	034-85-1292	01/31/85			20	02/25/85	25
PITTSBURGH	26	034-85-1296	09/10/84	09/15/87	1100	12	02/25/85	168
PITTSBURGH	26	034-85-1965	03/21/84	10/30/86	953	16	06/11/85	447
PITTSBURGH	26	034-85-1971	09/01/84	04/30/87	971	24	06/12/85	284
PITTSBURGH	26	034-85-2029	11/16/83	04/30/87	1261	14	06/21/85	583
PITTSBURGH	26	034-85-2122	01/15/85	01/19/88	1099	00	07/10/85	176
PITTSBURGH	26	034-85-2427	07/26/83			00	08/23/85	759
PITTSBURGH	26	034-85-2539	08/08/85	10/07/87	790	00	09/09/85	32
PITTSBURGH	26	034-85-2594	12/01/84	01/12/88	1137	12	09/18/85	291
PITTSBURGH	26	034-85-2642	09/16/85	01/19/88	855	00	09/24/85	8
PITTSBURGH	26	034-86-0041	09/11/85			16	10/04/85	23
PITTSBURGH	26	034-86-0051	08/02/85	11/19/87	839	00	10/04/85	63
PITTSBURGH	26	034-86-0052	08/01/85	11/19/87	840	00	10/09/85	69
PITTSBURGH	26	034-86-0053	08/12/85	11/19/87	829	00	10/09/85	58
PITTSBURGH	26	034-86-0054	08/30/85	11/19/87	811	00	10/09/85	40
PITTSBURGH	26	034-86-0354	09/11/85			16	11/26/85	76
PITTSBURGH	26	034-86-0526	09/27/85	11/30/87	794	00	01/02/86	97
PITTSBURGH	26	034-86-0752	09/01/79	04/15/87	2783	10	02/07/86	2351
PITTSBURGH	26	034-86-0754	04/29/85	10/29/87	913	12	02/10/86	287
PITTSBURGH	26	034-86-1097	05/31/85	12/10/87	923	12	04/03/86	307
PITTSBURGH	26	034-86-1557	10/28/83			15	06/17/86	963
PITTSBURGH	26	172-86-1348	02/01/83	03/31/87	1519	13	05/16/86	1200
PITTSBURGH	26	172-86-1474	04/01/85			13	06/02/86	427
PITTSBURGH	26	172-86-1942	05/02/84	04/30/87	1093	00	08/05/86	825
PITTSBURGH	26	172-86-1987	12/01/84			14	03/15/86	469
PITTSBURGH	26	172-86-2129	01/01/84	10/22/86	1025	00	09/11/86	984
PITTSBURGH	26	172-86-2133	01/01/84	11/30/87	1429	15	09/12/86	985
PITTSBURGH	26	172-87-0083	01/01/84			13	10/02/86	1005
PITTSBURGH	26	172-87-0507	08/20/84	08/26/87	1101	15	01/20/87	883
PITTSBURGH	26	172-87-0799	06/05/85			12	03/16/87	649
PITTSBURGH	26	172-87-0790	12/01/84			00	03/17/87	836
PITTSBURGH	26	172-87-0793	05/01/85			14	03/19/87	687
PITTSBURGH	26	172-87-1065	08/08/85			00	10/10/85	63
PITTSBURGH	26	220-87-1240	04/25/87	11/30/87	219	00	07/01/87	67
CHICAGO	27	051-82-2665	12/20/81			04	04/29/82	130
CHICAGO	27	051-82-3615	06/18/82	01/28/87	1685	00	07/12/82	24
CHICAGO	27	051-83-2103	03/01/83	10/21/87	1695	18	09/30/87	1674
CHICAGO	27	051-83-3507	02/28/83	01/28/87	1430	04	05/12/83	73
CHICAGO	27	051-84-1086	07/29/83	09/09/87	1503	00	12/12/83	136
CHICAGO	27	051-84-1600	12/08/83	09/09/87	1371	02	01/11/84	34
CHICAGO	27	051-84-1930	02/01/84	09/22/87	1329	17	02/09/84	8

CHICAGO	27	051-84-2630	01/19/84	08/17/87	1306	20	03/14/84	55
CHICAGO	27	051-84-2644	03/15/84	12/31/86	1021	00	03/16/84	1
CHICAGO	27	051-84-3165	04/04/84	01/29/88	1395	20	04/06/84	2
CHICAGO	27	051-84-4349	06/11/84	10/28/86	869	18	05/21/86	709
CHICAGO	27	051-84-5674	08/30/84	10/08/86	769	20	09/21/84	22
CHICAGO	27	051-85-1352	08/21/84			20	11/20/84	91
CHICAGO	27	051-85-1853	04/11/84			00	12/27/84	260
CHICAGO	27	051-85-1847	11/21/84	01/30/87	800	00	01/03/85	43
CHICAGO	27	051-85-2078	01/10/85			23	01/10/85	0
CHICAGO	27	051-85-2178	12/07/84	01/30/87	784	00	01/03/85	27
CHICAGO	27	051-85-2220	01/29/84	07/30/87	1278	20	11/30/84	306
CHICAGO	27	051-85-2374	02/01/84			00	01/23/85	357
CHICAGO	27	051-85-2497	05/24/84	05/29/87	735	00	02/08/85	260
CHICAGO	27	051-85-2647	06/27/84	04/30/87	1037	00	02/13/85	231
CHICAGO	27	051-85-2711	08/31/84	10/31/86	791	00	02/25/85	178
CHICAGO	27	051-85-2750	02/21/85	03/31/87	768	00	02/27/85	6
CHICAGO	27	051-85-2802	09/21/84	06/30/86	647	00	01/22/85	123
CHICAGO	27	051-85-2864	09/28/84	11/18/86	781	00	03/08/85	161
CHICAGO	27	051-85-2920	02/19/85			23	03/14/85	23
CHICAGO	27	051-85-2953	03/11/85	05/27/87	807	00	03/18/85	7
CHICAGO	27	051-85-2954	03/11/85	05/27/87	807	00	03/18/85	7
CHICAGO	27	051-85-2983	03/22/85	05/27/87	796	00	03/25/85	3
CHICAGO	27	051-85-2991	02/27/85	05/29/87	821	00	03/15/85	16
CHICAGO	27	051-85-3118	03/22/85	07/30/87	860	00	04/02/85	11
CHICAGO	27	051-85-3123	12/27/84	09/09/87	986	04	04/02/85	96
CHICAGO	27	051-85-3132	12/07/84	01/30/87	784	00	04/01/85	115
CHICAGO	27	051-85-3134	10/09/84	10/21/86	742	00	04/02/85	175
CHICAGO	27	051-85-3267	10/29/84	09/29/87	1066	18	09/30/86	701
CHICAGO	27	051-85-3469	02/15/85	09/30/87	957	18	12/06/85	294
CHICAGO	27	051-85-3858	04/24/85	11/07/87	927	00	04/26/85	2
CHICAGO	27	051-85-4046	04/16/85			23	05/06/85	20
CHICAGO	27	051-85-4077	05/01/85			24	05/06/85	5
CHICAGO	27	051-85-4398	05/03/85	05/29/87	756	00	05/28/85	25
CHICAGO	27	051-85-4547	08/10/84	07/31/87	1085	00	08/09/85	272
CHICAGO	27	051-85-4579	12/12/83	11/07/86	1061	00	06/10/85	546
CHICAGO	27	051-85-4685	06/05/85	08/31/87	817	00	06/24/85	19
CHICAGO	27	051-85-4720	06/13/85	12/29/87	929	00	06/26/85	13
CHICAGO	27	051-85-4834	05/08/85	06/25/87	778	18	05/21/86	378
CHICAGO	27	051-85-5091	05/06/85			23	07/15/85	70
CHICAGO	27	051-85-5326	07/31/85			06	07/31/85	0
CHICAGO	27	051-85-5335	06/01/85	10/28/87	879	16	07/30/85	59
CHICAGO	27	051-85-5432	02/27/85	08/24/87	755	00	08/05/85	159
CHICAGO	27	051-85-5650	05/03/85	08/31/87	850	03	08/16/85	105
CHICAGO	27	051-85-5684	04/18/85	07/31/87	834	00	08/29/85	133

CHICAGO	27	051-85-5695	08/05/85			23	08/28/85	23
CHICAGO	27	051-85-5740	08/05/85	09/09/87	765	18	12/23/86	505
CHICAGO	27	051-85-5746	06/17/85			06	08/29/85	73
CHICAGO	27	051-85-5787	08/02/85	09/09/87	768	00	08/28/85	26
CHICAGO	27	051-85-5867	11/23/84	11/25/86	732	20	09/13/85	294
CHICAGO	27	051-85-5868	11/13/84	11/25/86	742	00	09/04/85	295
CHICAGO	27	051-85-5970	03/28/85			18	06/12/85	76
CHICAGO	27	051-85-6006	11/22/84	12/31/86	769	20	09/13/85	295
CHICAGO	27	051-85-6007	08/23/85			23	09/12/85	20
CHICAGO	27	051-85-6052	08/11/85	09/09/87	759	00	09/16/85	36
CHICAGO	27	051-85-6098	09/11/85			06	09/16/85	5
CHICAGO	27	051-85-6120	08/16/85	10/28/87	803	20	09/25/85	40
CHICAGO	27	051-85-6162	12/31/84	07/31/87	942	02	09/25/85	268
CHICAGO	27	051-86-0137	04/09/85	02/28/87	690	00	10/05/85	177
CHICAGO	27	051-86-0155	09/01/85			23	10/28/85	57
CHICAGO	27	051-86-0172	08/29/85			02	10/28/85	60
CHICAGO	27	051-86-0178	07/22/85	09/09/87	779	00	10/17/85	87
CHICAGO	27	051-86-0243	01/07/85	02/13/87	767	00	10/24/85	290
CHICAGO	27	051-86-0485	05/20/85			06	10/25/85	158
CHICAGO	27	051-86-0733	01/09/84	01/30/87	1117	12	11/07/85	668
CHICAGO	27	051-86-0784	05/31/85	08/31/87	822	00	11/21/85	174
CHICAGO	27	051-86-0863	10/18/85	11/23/87	766	02	12/03/85	46
CHICAGO	27	051-86-1010	11/25/85			18	04/10/87	501
CHICAGO	27	051-86-1034	06/12/85	06/15/85	3	20	11/25/85	166
CHICAGO	27	051-86-1047	11/21/84	01/30/87	800	12	10/01/85	314
CHICAGO	27	051-86-1072	11/25/85			23	12/13/85	18
CHICAGO	27	051-86-1190	06/21/85			23	12/10/85	172
CHICAGO	27	051-86-1201	04/22/85			01	12/30/85	252
CHICAGO	27	051-86-1225	10/17/85	10/28/87	741	00	12/11/85	55
CHICAGO	27	051-86-1266	12/16/85			23	04/10/86	115
CHICAGO	27	051-86-1318	05/20/85			23	01/13/86	238
CHICAGO	27	051-86-1329	12/12/85			02	12/31/85	19
CHICAGO	27	051-86-1337	09/23/85	09/23/87	730	18	02/19/87	514
CHICAGO	27	051-86-1405	11/26/85	12/08/87	742	00	01/17/86	52
CHICAGO	27	051-86-1406	12/07/85	12/10/87	733	00	01/17/86	41
CHICAGO	27	051-86-1413	10/17/85			23	01/17/86	92
CHICAGO	27	051-86-1446	03/01/85	09/09/87	922	18	12/23/86	662
CHICAGO	27	051-86-1748	07/11/85	09/09/87	790	00	01/27/86	200
CHICAGO	27	051-86-1757	08/23/85			06	01/27/86	157
CHICAGO	27	051-86-1787	09/13/85			01	02/05/86	145
CHICAGO	27	051-86-2033	10/21/85			23	02/18/86	120
CHICAGO	27	051-86-2108	07/01/85	08/27/87	787	20	02/25/86	239
CHICAGO	27	051-86-2120	01/01/86	01/29/88	758	00	02/21/86	51

CHICAGO	27	051-86-2127	08/28/85	09/09/87	742	00	02/24/86	180
CHICAGO	27	051-86-2170	08/23/85	09/09/87	747	00	02/25/86	186
CHICAGO	27	051-86-2213	10/01/85	10/28/87	757	16	10/01/85	0
CHICAGO	27	051-86-2493	11/08/85	11/30/87	752	00	03/13/86	125
CHICAGO	27	051-86-2523	03/15/85			15	03/11/86	361
CHICAGO	27	051-86-2526	10/25/85			25	05/12/86	138
CHICAGO	27	051-86-2568	02/01/86			25	05/17/86	44
CHICAGO	27	051-86-2612	11/04/85	12/14/87	770	00	03/25/86	141
CHICAGO	27	051-86-2649	02/01/86			20	05/28/86	55
CHICAGO	27	051-86-2679	07/09/85	09/28/87	811	02	04/02/86	267
CHICAGO	27	051-86-3106	09/12/85	09/24/87	742	18	08/12/86	334
CHICAGO	27	051-86-3263	11/22/85	11/30/87	738	00	04/21/86	150
CHICAGO	27	051-86-3322	10/31/85	01/21/88	812	20	04/29/86	180
CHICAGO	27	051-86-3324	10/09/85			00	04/30/86	268
CHICAGO	27	055-86-1950	09/13/85	01/29/88	868	00	08/13/86	334
CHICAGO	27	071-85-0787	07/27/84	11/28/86	854	20	11/04/85	465
CHICAGO	27	071-85-1159	11/15/84	01/28/87	804	02	03/12/85	117
CHICAGO	27	210-86-3434	08/30/85	09/09/87	748	00	05/14/86	257
CHICAGO	27	210-86-3471	11/22/85			25	05/19/86	178
CHICAGO	27	210-86-3486	03/01/85	06/19/87	840	00	05/20/86	445
CHICAGO	27	210-86-3588	09/14/85	12/14/87	823	00	06/05/86	264
CHICAGO	27	210-86-3599	09/01/85			00	06/10/86	282
CHICAGO	27	210-86-3828	01/29/86			25	02/02/86	4
CHICAGO	27	210-86-3932	08/29/85	09/09/87	741	00	06/20/86	295
CHICAGO	27	210-86-3949	01/01/85	06/25/87	905	00	07/15/86	340
CHICAGO	27	210-86-3957	01/21/86	01/28/88	737	20	02/17/86	27
CHICAGO	27	210-86-4419	01/01/86			00	07/29/86	209
CHICAGO	27	210-86-4438	12/01/85			00	07/21/86	232
CHICAGO	27	210-86-4916	12/15/85	01/29/88	775	00	09/29/86	288
CHICAGO	27	210-87-0164	06/08/84	05/31/87	1026	12	10/24/86	868
CHICAGO	27	210-87-0173	01/18/85	03/27/87	798	20	09/29/86	619
CHICAGO	27	210-87-0280	01/06/86	01/28/88	752	21	10/31/86	298
CHICAGO	27	210-87-0333	11/30/85	12/09/87	739	12	11/06/86	341
CHICAGO	27	210-87-0492	02/04/86			00	11/21/86	290
CHICAGO	27	210-87-1535	07/03/85	09/09/87	798	12	05/04/87	670
CHICAGO	27	210-87-1754	05/01/84	06/23/87	1148	12	04/30/87	1094
CHICAGO	27	210-87-1892	07/01/85			00	07/01/87	730
CHICAGO	27	210-87-2221	11/01/85			00	09/04/87	672
CHICAGO	27	210-88-0300	01/01/86			10	01/01/87	365
CHICAGO	27	218-86-2855	02/11/86			18	11/09/87	636
CHICAGO	27	218-86-3126	09/01/85			18	02/19/87	536
CHICAGO	27	218-86-4007	08/23/85			18	11/09/87	808
CHICAGO	27	218-87-0076	01/08/86			18	04/15/87	462

DALLAS	28	061-84-0668	10/13/83			09	12/09/83	57
DALLAS	28	061-85-1174	11/25/84			20	02/14/85	81
DALLAS	28	061-85-1685	02/25/85	02/29/88	1099	09	03/27/85	30
DALLAS	28	061-85-2475	12/01/84			16	06/11/85	192
DALLAS	28	061-85-3033	07/15/85	02/01/88	931	09	07/29/85	14
DALLAS	28	061-86-0715	12/10/85			19	12/11/85	1
DALLAS	28	061-86-0716	12/10/85			19	12/11/85	1
DALLAS	28	061-86-1329	01/07/86			09	02/18/86	42
DALLAS	28	061-86-1343	07/08/85	02/01/88	938	12	03/24/86	259
DALLAS	28	061-86-1684	01/13/86			09	03/17/86	63
DALLAS	28	061-86-1753	07/08/85			09	02/19/86	226
DALLAS	28	061-86-1873	12/31/84			13	03/31/86	453
DALLAS	28	061-86-2316	01/27/86			19	05/05/86	98
DALLAS	28	061-87-0211	01/02/86			12	10/21/86	292
DALLAS	28	310-85-3068	05/28/85			16	07/30/85	63
DALLAS	28	310-85-3362	09/05/84			12	08/09/85	337
DALLAS	28	310-85-3628	09/18/85			21	09/25/85	7
DALLAS	28	310-86-0784	10/31/85	12/23/86	418	09	12/24/85	54
DALLAS	28	310-86-1089	09/19/85			09	01/27/86	130
DALLAS	28	310-86-1125	01/08/86			19	01/19/86	11
DALLAS	28	310-86-1162	01/22/86			09	01/31/86	9
DALLAS	28	310-86-1365	01/04/86			21	02/24/86	51
DALLAS	28	310-86-1943	01/03/86	02/22/88	780	09	04/04/86	91
DALLAS	28	310-86-2423	12/01/85			09	04/14/86	134
DALLAS	28	310-86-2426	11/01/85			12	05/14/86	194
DALLAS	28	310-86-2566	07/31/85			12	05/14/86	287
DALLAS	28	310-86-2578	08/19/85			12	05/30/86	284
DALLAS	28	310-86-2639	01/01/86	02/29/88	789	12	07/05/86	185
DALLAS	28	310-86-2786	08/22/85	02/22/88	914	12	06/18/86	300
DALLAS	28	310-86-3081	09/01/85	09/12/87	741	12	07/21/86	323
DALLAS	28	310-86-3124	11/01/85	02/10/88	831	12	07/23/86	264
DALLAS	28	310-86-3350	01/17/86			12	08/07/86	202
DALLAS	28	310-86-3372	12/31/85			21	08/11/86	223
DALLAS	28	310-86-3451	11/01/85			12	08/07/86	279
DALLAS	28	310-86-3652	11/01/85	02/12/88	833	12	08/05/86	275
DALLAS	28	310-87-1842	12/31/85			13	03/13/87	437
OKLAHOMA CITY	29	311-85-0542	01/25/85			00	01/25/85	0
OKLAHOMA CITY	29	311-85-0762	03/01/85			00	03/15/85	14
OKLAHOMA CITY	29	311-85-1211	02/05/85			00	06/07/85	122
OKLAHOMA CITY	29	311-85-1222	06/12/85			00	06/12/85	0
OKLAHOMA CITY	29	311-85-1365	06/03/85			00	07/11/85	38
OKLAHOMA CITY	29	311-85-1376	05/28/85			00	07/15/85	48
OKLAHOMA CITY	29	311-85-1394	07/17/85			00	07/17/85	0

District Office	Code	Charge Number	Violation Date	Closure Date	# Days	Reason Code	Date Received	# Days After
OKLAHOMA CITY	29	311-85-1480	06/30/85			21	08/06/85	37
OKLAHOMA CITY	29	311-85-1488	06/05/85			00	08/09/85	67
OKLAHOMA CITY	29	311-85-1503	07/31/85			00	08/12/85	12
OKLAHOMA CITY	29	311-85-1566	04/16/85			13	08/22/86	493
OKLAHOMA CITY	29	311-85-1648	09/06/85			00	09/09/85	3
OKLAHOMA CITY	29	311-86-0201	10/25/85			00	11/08/85	14
OKLAHOMA CITY	29	311-86-0225	09/30/85			00	11/13/85	44
OKLAHOMA CITY	29	311-86-0346	12/11/85			00	12/20/85	9
OKLAHOMA CITY	29	311-86-0367	04/11/85			12	12/20/85	253
OKLAHOMA CITY	29	311-86-0410	08/26/85			00	01/06/86	133
OKLAHOMA CITY	29	311-86-0457	12/02/85			00	01/15/86	44
OKLAHOMA CITY	29	311-86-0537	07/14/85			00	01/05/86	175
OKLAHOMA CITY	29	311-86-0548	11/29/85	06/17/86	200	00	01/15/86	47
OKLAHOMA CITY	29	311-86-0555	11/20/85			12	02/06/86	78
OKLAHOMA CITY	29	311-86-0579	04/15/85			12	02/14/86	305
OKLAHOMA CITY	29	311-86-0641	01/13/86			14	10/16/87	641
OKLAHOMA CITY	29	311-86-0682	12/05/85			00	03/03/86	88
OKLAHOMA CITY	29	311-86-0775	04/01/85			12	03/21/86	354
OKLAHOMA CITY	29	311-86-0937	09/27/85			12	04/22/86	207
OKLAHOMA CITY	29	311-86-1068	08/14/91			15	05/16/86	1736
OKLAHOMA CITY	29	311-86-1177	08/10/85			15	08/12/87	732
OKLAHOMA CITY	29	311-86-1332	06/17/85			00	07/03/85	18
OKLAHOMA CITY	29	311-86-1357	04/11/86			12	09/26/86	168
OKLAHOMA CITY	29	311-86-1463	11/18/83			14	09/03/86	289
OKLAHOMA CITY	29	311-87-0038	01/14/86			12	10/09/86	268
OKLAHOMA CITY	29	311-87-0055	12/05/85			12	10/08/86	307
OKLAHOMA CITY	29	311-87-0089	12/30/85			14	10/14/87	653
OKLAHOMA CITY	29	311-87-0131	11/10/83			15	11/04/86	1090
OKLAHOMA CITY	29	311-87-0421	06/24/85			15	01/22/87	577
OKLAHOMA CITY	29	311-87-0581	05/01/85			15	03/14/87	682
OKLAHOMA CITY	29	311-87-0625	05/13/85			14	05/06/87	721
OKLAHOMA CITY	29	311-87-0931	11/01/83			13	06/11/87	1318
OKLAHOMA CITY	29	331-86-0907	08/25/85			16	01/27/86	155
DENVER	30	051-85-4054	02/01/85	09/28/87	969	01	06/19/86	503
DENVER	30	081-85-0826	10/18/84	03/27/87	890	16	11/02/84	15
DENVER	30	081-85-1967	03/18/85			00	04/10/85	23
DENVER	30	081-85-1988	03/18/85			00	04/11/85	24
DENVER	30	081-85-1999	03/18/85			00	04/10/85	23
DENVER	30	081-85-2095	03/25/85			18	04/19/85	25
DENVER	30	081-85-2094	02/20/85			18	07/04/85	134
DENVER	30	081-85-3889	01/10/85			16	07/09/85	180
DENVER	30	081-85-3019	03/15/85	04/23/87	769	18	07/12/85	119
DENVER	30	081-85-3091	02/15/85			18	07/25/85	160

DENVER	30	081-85-3148	06/15/85			18	08/01/85	47
DENVER	30	081-85-3247	04/30/85			18	08/19/85	111
DENVER	30	081-85-3848	08/29/85			18	09/30/85	32
DENVER	30	081-86-0176	02/08/85	04/23/87	804	18	10/15/85	249
DENVER	30	081-86-0704	10/14/85			18	05/26/86	255
DENVER	30	081-86-0721	08/16/85			18	11/27/85	103
DENVER	30	081-86-1131	10/22/85			01	01/27/86	97
DENVER	30	081-86-1292	08/22/85	08/24/87	732	01	02/11/86	173
DENVER	30	081-86-1481	09/01/85	09/18/87	747	16	02/27/86	179
DENVER	30	081-86-1840	03/27/85			20	03/27/85	0
DENVER	30	081-86-1963	06/14/85	06/26/87	742	12	04/11/86	301
DENVER	30	081-86-2063	10/25/85	11/16/87	752	20	04/15/86	172
DENVER	30	081-86-2536	07/24/85	07/30/87	736	12	05/09/86	320
DENVER	30	081-86-2720	08/29/85	09/14/87	746	01	06/23/86	298
DENVER	30	081-86-2773	11/19/85			18	06/24/86	217
DENVER	30	081-86-3017	08/01/85			20	07/08/86	341
DENVER	30	081-86-3440	12/05/84	12/09/86	734	14	08/25/86	628
DENVER	30	093-85-2119	02/01/85			01	11/22/85	294
DENVER	30	320-86-2018	11/19/85			17	04/18/86	150
DENVER	30	320-87-0007	08/28/85	09/16/87	749	05	10/02/86	400
DENVER	30	320-87-0711	10/07/85	01/21/88	836	13	02/19/87	500
DENVER	30	320-87-1377	03/05/85	05/26/87	812	15	05/18/87	804
DENVER	30	320-87-1415	10/14/85	01/19/88	827	14	05/21/87	384
DENVER	30	320-87-1534	10/31/85			14	06/15/87	592
DENVER	30	320-87-1930	02/25/85	08/17/87	903	18	07/29/87	884
DENVER	30	320-87-2246	11/01/85			14	09/10/87	678
DENVER	30	320-87-2271	10/31/85			14	09/14/87	683
HOUSTON	31	022-86-0237	06/24/85			05	01/23/86	213
HOUSTON	31	033-87-0365	05/08/85	05/26/87	748	13	11/12/86	553
HOUSTON	31	064-84-1172	02/14/84	06/11/87	1213	05	02/14/84	0
HOUSTON	31	064-84-1337	02/11/84	06/11/87	1216	05	03/05/84	23
HOUSTON	31	064-84-2137	05/29/84	02/24/87	1001	21	05/29/84	0
HOUSTON	31	064-84-2152	01/19/84	06/11/87	1239	05	05/31/84	133
HOUSTON	31	064-84-2152	01/19/84	06/11/87	1239	05	05/31/84	133
HOUSTON	31	064-84-2153	01/28/84	06/11/87	1230	05	06/12/84	136
HOUSTON	31	064-84-2154	01/16/84	06/11/87	1242	05	06/12/84	148
HOUSTON	31	064-84-2155	01/16/84	06/11/87	1242	05	05/31/84	136
HOUSTON	31	064-84-2156	02/01/84	06/11/87	1226	05	06/12/84	132
HOUSTON	31	064-84-2157	01/28/84	06/11/87	1230	05	06/12/84	134
HOUSTON	31	064-84-2158	01/30/84	06/11/87	1238	05	06/12/84	144
HOUSTON	31	064-84-2159	01/20/84	06/11/87	1238	05	05/31/84	132
HOUSTON	31	064-84-2160	02/04/84	06/11/87	1225	05	05/31/84	117
HOUSTON	31	064-84-2161	02/04/84	06/11/87	1225	05	05/31/84	117
HOUSTON	31	064-84-2162	02/02/84	06/11/87	1225	05	05/31/84	119

HOUSTON	31	064-84-2163	02/04/84	06/11/87	1223	05	05/31/84	117
HOUSTON	31	064-84-2164	02/04/84	06/11/87	1223	05	06/12/84	129
HOUSTON	31	064-84-2165	01/20/84	06/11/87	1238	05	06/11/84	143
HOUSTON	31	064-84-2166	02/05/84	06/11/87	1222	05	06/12/84	128
HOUSTON	31	064-84-2167	01/18/84	06/11/87	1240	05	06/12/84	146
HOUSTON	31	064-84-2168	01/15/84	06/11/87	1243	05	05/31/84	137
HOUSTON	31	064-84-2169	01/21/84	06/11/87	1237	05	05/31/84	131
HOUSTON	31	064-84-2582	01/22/84	06/11/87	1236	05	07/09/84	169
HOUSTON	31	064-84-2598	01/14/84	06/11/87	1244	05	07/17/84	185
HOUSTON	31	064-84-2615	01/14/84	06/11/87	1244	05	06/11/87	1244
HOUSTON	31	064-85-0734	02/04/84	06/11/87	1223	05	11/28/84	298
HOUSTON	31	064-85-1365	12/20/85			00	03/03/86	73
HOUSTON	31	064-85-2185	02/11/85	11/24/87	1016	05	11/20/85	282
HOUSTON	31	064-85-2201	04/04/85	04/14/87	740	10	04/15/85	11
HOUSTON	31	064-85-2202	04/02/84	04/14/87	1107	10	04/11/85	374
HOUSTON	31	064-85-2652	02/14/85	03/27/87	771	00	05/21/85	96
HOUSTON	31	064-85-2720	01/15/85	02/24/87	770	21	05/31/85	136
HOUSTON	31	064-85-2873	05/07/85	10/27/87	872	20	06/13/85	6
HOUSTON	31	064-85-3922	06/02/85			01	09/26/85	114
HOUSTON	31	064-85-3936	06/25/85	09/28/87	825	01	09/26/85	93
HOUSTON	31	064-85-3937	06/25/85	09/28/87	825	01	09/30/85	97
HOUSTON	31	064-86-0438	07/30/85			00	11/15/85	108
HOUSTON	31	064-86-0969	07/14/85			00	01/13/86	183
HOUSTON	31	064-86-0975	10/01/85			00	01/13/86	104
HOUSTON	31	064-86-1105	03/01/85			00	01/29/86	334
HOUSTON	31	064-86-1135	12/31/85			00	01/31/86	31
HOUSTON	31	064-86-1306	08/22/85	05/24/87	579	00	02/18/86	180
HOUSTON	31	064-86-1593	09/22/85			00	05/19/86	178
HOUSTON	31	064-86-1758	11/01/85			00	04/06/86	158
HOUSTON	31	064-86-1762	01/13/86			00	04/08/86	85
HOUSTON	31	064-86-1905	11/30/85			00	04/24/86	145
HOUSTON	31	064-86-1996	10/31/85			00	05/05/86	186
HOUSTON	31	064-86-2332	07/17/85			00	06/09/86	327
HOUSTON	31	064-86-2430	08/28/85	09/29/87	762	15	06/20/87	661
HOUSTON	31	064-86-2549	01/26/86			00	07/02/86	157
HOUSTON	31	064-86-2665	12/22/85			00	07/21/86	211
HOUSTON	31	064-86-2675	08/23/85	09/29/87	767	01	07/21/86	332
HOUSTON	31	064-86-3212	12/31/85			00	09/12/86	255
HOUSTON	31	064-86-3350	12/30/85	12/31/87	731	20	09/29/86	273
HOUSTON	31	064-87-2155	01/16/84	06/11/87	1242	05	05/31/84	136
HOUSTON	31	330-87-0232	11/28/84	01/29/88	1157	00	10/27/86	698
HOUSTON	31	330-87-0323	01/15/86			00	11/12/86	301
HOUSTON	31	330-87-0345	05/08/85	05/26/87	748	13	11/12/86	553
HOUSTON	31	330-87-0552	01/28/85			00	12/08/86	679

HOUSTON	31	330-87-0602	07/02/85	09/01/87	791	01	12/29/85	180
HOUSTON	31	330-87-0607	07/02/85			14	12/29/85	180
HOUSTON	31	330-87-0744	11/17/85	11/27/87	740	00	01/13/87	422
HOUSTON	31	330-87-1974	08/01/85	10/23/87	813	00	05/20/87	657
HOUSTON	31	330-87-1996	02/15/85	06/01/87	836	15	05/19/87	823
HOUSTON	31	330-87-2815	01/01/85	12/04/87	1067	15	06/19/87	899
HOUSTON	31	330-87-2823	11/01/85	11/03/87	732	14	06/20/87	657
HOUSTON	31	330-88-0560	03/01/85			15	11/03/87	977
INDIANAPOLIS	32	053-83-1970	06/24/83			20	06/24/83	0
INDIANAPOLIS	32	053-85-0242	09/26/84			20	10/10/84	14
INDIANAPOLIS	32	053-85-0599	10/12/84			20	11/29/84	48
INDIANAPOLIS	32	053-85-0882	11/23/84	01/22/87	790	20	01/09/85	47
INDIANAPOLIS	32	053-83-1496	12/31/84			04	04/09/85	99
INDIANAPOLIS	32	053-85-2234	03/29/85			16	07/12/85	105
INDIANAPOLIS	32	053-86-0588	03/02/85			20	07/31/85	151
INDIANAPOLIS	32	053-86-0681	03/29/85			16	07/12/85	105
INDIANAPOLIS	32	053-86-1023	01/23/86	12/23/86	731	20	02/13/86	21
INDIANAPOLIS	32	053-86-1024	06/18/84			04	02/13/86	605
INDIANAPOLIS	32	053-86-1025	06/18/84			04	02/13/86	605
INDIANAPOLIS	32	053-86-1085	06/18/84			04	02/13/86	605
INDIANAPOLIS	32	053-86-1086	06/18/84			04	02/13/86	605
INDIANAPOLIS	32	053-86-1141	10/01/84	11/19/86	779	13	02/27/86	314
INDIANAPOLIS	32	053-86-1152	06/18/84			04	02/13/86	605
INDIANAPOLIS	32	053-86-1153	06/18/84			04	02/13/86	605
INDIANAPOLIS	32	053-86-1154	06/18/84			04	02/13/86	605
INDIANAPOLIS	32	053-86-1155	06/18/84			04	02/13/86	605
INDIANAPOLIS	32	053-86-1193	06/18/84			04	02/13/86	605
INDIANAPOLIS	32	053-86-1194	06/18/84			04	02/13/86	0
INDIANAPOLIS	32	053-86-1239	08/21/85			20	03/12/86	0
INDIANAPOLIS	32	053-86-1753	11/01/85			20	05/13/86	191
INDIANAPOLIS	32	053-86-1784	10/11/85	12/12/87	788	20	05/16/86	213
INDIANAPOLIS	32	053-86-1892	01/06/86			20	05/30/86	144
INDIANAPOLIS	32	053-86-2255	10/01/85	10/30/87	759	17	07/18/86	290
INDIANAPOLIS	32	240-87-0537	01/06/81	03/27/87	2243	20	12/31/86	2185
INDIANAPOLIS	32	240-87-1279	02/18/85			20	04/28/87	799
LOUISVILLE	33	016-85-0112	08/28/84			20	10/29/84	62
LOUISVILLE	33	016-86-0419	12/02/85	02/05/88	795	17	02/04/86	64
LOUISVILLE	33	016-86-0567	01/08/86	01/08/88	730	00	03/19/86	70
LOUISVILLE	33	016-86-0621	10/18/85			00	04/09/86	173
LOUISVILLE	33	016-86-0644	09/23/85	09/30/87	737	00	04/29/86	218
LOUISVILLE	33	016-86-0787	08/02/82			00	10/26/82	85
LOUISVILLE	33	016-86-0992	10/15/85	01/29/88	836	19	07/31/86	289
LOUISVILLE	33	241-87-0103	04/15/83	09/10/87	1609	15	11/10/86	1305
LOS ANGELES	34	092-83-2230	06/20/83	02/13/87	1324	11	07/18/83	18

LOS ANGELES	34	092-84-2173	07/14/84	11/06/86	843	11	08/31/84	46
LOS ANGELES	34	092-84-3127	07/01/83	09/29/87	1551	08	12/07/83	159
LOS ANGELES	34	092-84-3402	10/21/83	11/[illegible]/86	1112	11	06/04/84	227
LOS ANGELES	34	092-84-3486	07/31/84	09/14/87	1160	05	08/31/84	31
LOS ANGELES	34	092-84-3495	08/01/84	10/06/86	796	00	09/13/84	43
LOS ANGELES	34	092-84-3496	12/06/83	10/06/86	1035	00	09/13/84	282
LOS ANGELES	34	092-85-0422	09/14/84	10/06/86	752	17	11/06/84	53
LOS ANGELES	34	092-85-0476	12/06/84	05/12/87	887	02	12/12/84	6
LOS ANGELES	34	092-85-0479	10/01/84	07/23/87	1025	08	12/13/84	73
LOS ANGELES	34	092-85-0590	11/09/84	03/30/87	871	20	12/26/84	47
LOS ANGELES	34	092-85-0602	09/21/84	09/29/87	1103	08	12/26/85	461
LOS ANGELES	34	092-85-0700	01/11/85	03/30/87	808	08	01/17/85	6
LOS ANGELES	34	092-85-0704	05/30/84	03/30/87	1034	16	01/22/85	237
LOS ANGELES	34	092-85-0738	01/14/85			08	01/23/85	9
LOS ANGELES	34	092-85-0742	01/04/85	03/31/87	816	08	01/25/85	21
LOS ANGELES	34	092-85-0807	09/18/84	09/24/87	1101	08	02/01/85	136
LOS ANGELES	34	092-85-0853	12/19/84	12/22/86	733	16	02/05/85	48
LOS ANGELES	34	092-85-1087	01/11/85			02	03/12/85	60
LOS ANGELES	34	092-85-1179	03/15/85	09/30/87	929	08	03/21/85	6
LOS ANGELES	34	092-85-1260	03/29/85	04/23/87	755	00	04/01/85	3
LOS ANGELES	34	092-85-1275	11/10/84	03/19/87	859	01	04/04/85	145
LOS ANGELES	34	092-85-1300	12/07/84	03/19/87	838	17	04/04/85	124
LOS ANGELES	34	092-85-1312	03/10/85	04/17/87	768	00	04/15/85	36
LOS ANGELES	34	092-85-1329	04/09/85	09/15/87	889	08	04/17/85	8
LOS ANGELES	34	092-85-1330	03/21/85	09/30/87	923	08	04/09/85	19
LOS ANGELES	34	092-85-1338	10/31/84	04/30/87	911	02	04/05/85	156
LOS ANGELES	34	092-85-1424	03/29/85	09/04/87	889	08	04/22/85	24
LOS ANGELES	34	092-85-1453	05/15/85			00	04/26/85	40
LOS ANGELES	34	092-85-1471	03/30/85	09/04/87	888	08	04/25/85	26
LOS ANGELES	34	092-85-1546	02/26/85	10/21/87	967	02	05/01/85	64
LOS ANGELES	34	092-85-1547	04/01/85			04	05/01/85	30
LOS ANGELES	34	092-85-1553	07/27/84	02/27/87	915	02	04/29/85	276
LOS ANGELES	34	092-85-1576	04/17/85	04/30/87	743	00	05/02/85	15
LOS ANGELES	34	092-85-1592	01/10/85	03/31/87	810	08	05/07/85	117
LOS ANGELES	34	092-85-1643	01/01/85	09/29/87	1001	08	05/09/85	128
LOS ANGELES	34	092-85-1689	03/11/85	03/31/87	750	00	05/17/85	67
LOS ANGELES	34	092-85-1723	03/07/85			08	05/22/85	76
LOS ANGELES	34	092-85-1730	23/06/85	03/20/87	744	00	03/22/85	16
LOS ANGELES	34	092-85-1747	05/01/85			11	05/23/85	83
LOS ANGELES	34	092-85-1767	03/24/85	09/30/87	920	08	05/28/85	65
LOS ANGELES	34	092-85-1773	03/20/85	09/11/87	905	00	05/29/85	70
LOS ANGELES	34	092-85-1778	01/25/85	03/09/87	773	08	05/29/85	124
LOS ANGELES	34	092-85-1790	04/30/85	07/24/87	815	08	05/30/85	30
LOS ANGELES	34	092-85-1797	12/01/84	08/25/87	997	08	05/13/85	163
LOS ANGELES	34	092-85-1800	05/30/85	03/30/87	649	08	05/31/85	1

LOS ANGELES	34	092-85-1803	05/01/85	06/30/87	790	20	05/31/85	30
LOS ANGELES	34	092-85-1813	02/11/85	04/17/87	795	08	06/03/85	112
LOS ANGELES	34	092-85-1814	05/28/85	09/21/87	846	08	06/03/85	6
LOS ANGELES	34	092-85-1819	05/23/85	07/15/87	783	16	06/03/85	11
LOS ANGELES	34	092-85-1834	05/20/85	09/11/87	844	02	06/04/85	15
LOS ANGELES	34	092-85-1850	03/09/85	07/10/87	853	08	06/06/85	89
LOS ANGELES	34	092-85-1905	04/01/85	09/30/87	912	04	06/07/85	67
LOS ANGELES	34	092-85-1931	06/13/85			00	06/17/85	4
LOS ANGELES	34	092-85-1942	06/14/85	09/30/87	838	08	06/18/85	4
LOS ANGELES	34	092-85-1949	06/11/85			00	06/19/85	8
LOS ANGELES	34	092-85-1957	11/01/84	09/30/87	1063	00	06/19/85	230
LOS ANGELES	34	092-85-1965	03/08/85	04/23/87	776	08	06/19/85	103
LOS ANGELES	34	092-85-2010	10/01/84	07/26/87	1038	30	06/25/85	367
LOS ANGELES	34	092-85-2017	04/01/85	04/17/87	746	00	06/26/85	86
LOS ANGELES	34	092-85-2019	12/01/84	03/30/87	849	21	06/21/85	202
LOS ANGELES	34	092-85-2039	10/01/84	12/12/86	802	08	07/25/85	297
LOS ANGELES	34	092-85-2043	03/28/85			07	06/28/85	92
LOS ANGELES	34	092-85-2046	12/01/84	03/29/87	848	08	06/28/85	209
LOS ANGELES	34	092-85-2056	06/21/85			08	06/28/85	7
LOS ANGELES	34	092-85-2066	11/09/84	03/12/87	853	20	06/25/85	228
LOS ANGELES	34	092-85-2193	06/18/85			00	07/18/85	30
LOS ANGELES	34	092-85-2237	01/22/85	09/30/87	981	02	07/24/85	183
LOS ANGELES	34	092-85-2239	06/19/85			08	07/24/85	35
LOS ANGELES	34	092-85-2241	07/01/85			00	07/24/85	23
LOS ANGELES	34	092-85-2247	07/08/85	09/29/87	813	08	07/25/85	17
LOS ANGELES	34	092-85-2264	06/27/85	09/04/87	799	08	07/19/85	22
LOS ANGELES	34	092-85-2265	07/11/85	09/29/87	810	08	07/29/85	18
LOS ANGELES	34	092-85-2313	01/10/85	06/30/87	901	02	08/02/85	204
LOS ANGELES	34	092-85-2317	08/01/85	12/09/87	860	02	08/02/85	1
LOS ANGELES	34	092-85-2343	07/24/85	08/27/87	764	08	08/06/85	13
LOS ANGELES	34	092-85-2351	03/21/85	09/30/87	923	08	08/07/85	139
LOS ANGELES	34	092-85-2361	01/22/85	03/31/87	798	20	08/08/85	198
LOS ANGELES	34	092-85-2387	07/19/85			20	08/12/85	24
LOS ANGELES	34	092-85-2418	01/08/85	01/06/88	1093	08	08/09/85	213
LOS ANGELES	34	092-85-2435	11/01/84	02/04/87	825	22	08/13/85	287
LOS ANGELES	34	092-85-2439	08/01/85			00	08/06/85	5
LOS ANGELES	34	092-85-2445	03/22/85	08/18/87	879	00	08/14/85	145
LOS ANGELES	34	092-85-2479	08/20/85	09/30/87	771	16	08/22/85	2
LOS ANGELES	34	092-85-2480	07/12/85	07/24/87	742	00	08/22/85	41
LOS ANGELES	34	092-85-2499	08/15/85			08	08/27/85	12
LOS ANGELES	34	092-85-2504	01/11/85			02	08/26/85	227
LOS ANGELES	34	092-85-2505	08/26/85	09/21/87	756	08	08/26/85	0
LOS ANGELES	34	092-85-2506	11/30/84	12/22/86	752	08	08/27/85	270
LOS ANGELES	34	092-85-2520	07/25/85	09/32/87	789	00	08/28/85	34

LOS ANGELES	34	092-85-2559	08/23/85			00	09/30/85	39
LOS ANGELES	34	092-85-2587	07/25/85	09/29/87	796	08	09/04/85	41
LOS ANGELES	34	092-85-2606	06/28/85			00	09/09/85	73
LOS ANGELES	34	092-85-2612	07/26/85			01	09/09/85	45
LOS ANGELES	34	092-85-2627	07/31/85	08/21/87	751	16	09/10/85	41
LOS ANGELES	34	092-85-2639	04/09/85	09/29/87	903	20	09/11/85	155
LOS ANGELES	34	092-85-2651	08/22/85			17	09/11/85	20
LOS ANGELES	34	092-85-2688	09/03/85	09/30/87	757	20	09/17/85	14
LOS ANGELES	34	092-85-2706	08/06/85	09/30/87	785	08	09/17/85	42
LOS ANGELES	34	092-85-2719	10/22/84	12/17/86	786	08	09/18/85	331
LOS ANGELES	34	092-85-2733	07/10/85	09/18/87	800	02	09/19/85	71
LOS ANGELES	34	092-85-2831	04/01/85	09/30/87	912	02	09/24/85	176
LOS ANGELES	34	092-85-2857	04/15/85			00	09/26/85	164
LOS ANGELES	34	092-85-2866	06/10/85	11/10/87	883	02	09/27/85	109
LOS ANGELES	34	092-85-2871	08/01/85			00	09/27/85	57
LOS ANGELES	34	092-85-2889	08/19/85			20	09/24/85	36
LOS ANGELES	34	092-85-2891	09/05/85			08	09/27/85	22
LOS ANGELES	34	092-85-5265	10/04/84	09/29/87	1090	00	12/19/84	76
LOS ANGELES	34	092-85-5328	11/23/84	11/25/86	732	07	01/28/85	66
LOS ANGELES	34	092-85-5516	07/25/85	09/22/87	789	00	08/28/85	34
LOS ANGELES	34	092-85-6053	01/15/85	07/17/87	913	00	04/15/85	90
LOS ANGELES	34	092-85-7304	01/30/85	09/29/87	972	07	02/15/85	16
LOS ANGELES	34	092-85-7742	12/11/84	12/30/86	749	07	02/21/85	72
LOS ANGELES	34	092-86-0003	04/12/85	08/18/87	858	00	10/03/85	174
LOS ANGELES	34	092-86-0009	09/13/85	09/29/87	746	00	10/04/85	21
LOS ANGELES	34	092-86-0086	10/04/85			00	10/09/85	5
LOS ANGELES	34	092-86-0103	09/09/85			02	10/10/85	31
LOS ANGELES	34	092-86-0106	09/20/85	09/29/87	739	08	10/10/85	20
LOS ANGELES	34	092-86-0125	10/02/85			00	10/11/85	9
LOS ANGELES	34	092-86-0135	07/26/85	09/29/87	795	08	10/15/85	81
LOS ANGELES	34	092-86-0147	09/05/85			11	10/16/85	41
LOS ANGELES	34	092-86-0155	12/08/84	09/30/87	1026	00	10/15/85	311
LOS ANGELES	34	092-86-0208	06/12/85			08	10/21/85	131
LOS ANGELES	34	092-86-0233	07/31/85	08/21/87	751	00	10/22/85	83
LOS ANGELES	34	092-86-0237	10/01/85	12/09/87	799	17	10/23/85	22
LOS ANGELES	34	092-86-0239	04/01/85	09/21/87	903	20	10/31/85	213
LOS ANGELES	34	092-86-0247	07/01/85			08	10/24/85	115
LOS ANGELES	34	092-86-0249	07/31/85	08/21/87	751	00	10/24/85	85
LOS ANGELES	34	092-86-0295	06/24/85	04/29/87	674	02	10/29/85	127
LOS ANGELES	34	092-86-0315	10/30/85	12/30/87	791	08	10/30/85	0
LOS ANGELES	34	092-86-0323	07/29/85			08	10/28/85	91
LOS ANGELES	34	092-86-0337	07/17/85			00	11/22/85	128
LOS ANGELES	34	092-86-0362	10/29/85			00	11/04/85	6
LOS ANGELES	34	092-86-0363	06/21/85	09/13/87	816	20	11/04/85	136

LOS ANGELES	34	092-86-0376	08/09/85	08/27/87	748	00	11/05/85	88
LOS ANGELES	34	092-86-0394	06/01/85	11/30/87	912	00	11/06/85	158
LOS ANGELES	34	092-86-0408	10/10/85			00	10/10/85	0
LOS ANGELES	34	092-86-0409	10/31/85	12/04/87	764	00	10/31/85	0
LOS ANGELES	34	092-86-0418	10/31/85			00	10/31/85	0
LOS ANGELES	34	092-86-0426	02/04/85	06/11/87	857	08	11/01/85	270
LOS ANGELES	34	092-86-0427	09/19/85	09/30/87	741	20	11/29/85	71
LOS ANGELES	34	092-86-0450	06/21/85	12/21/87	610	20	11/13/85	145
LOS ANGELES	34	092-86-0473	11/12/85			00	11/12/85	0
LOS ANGELES	34	092-86-0492	10/25/85			00	10/25/85	0
LOS ANGELES	34	092-86-0497	10/25/85			00	10/25/85	0
LOS ANGELES	34	092-86-0519	11/07/85	01/05/88	789	08	11/20/85	13
LOS ANGELES	34	092-86-0528	09/19/85	09/30/87	741	00	11/25/85	67
LOS ANGELES	34	092-86-0539	05/31/85	11/09/87	892	02	11/21/85	174
LOS ANGELES	34	092-86-0555	08/15/85	09/29/87	775	08	11/25/85	102
LOS ANGELES	34	092-86-0569	05/01/85	08/27/87	848	08	11/26/85	209
LOS ANGELES	34	092-86-0579	01/11/85			08	11/29/85	322
LOS ANGELES	34	092-86-0592	10/25/85	01/28/88	685	00	11/29/85	35
LOS ANGELES	34	092-86-0594	11/05/85	12/23/87	778	14	04/24/87	535
LOS ANGELES	34	092-86-0603	10/01/85	12/09/87	799	02	12/03/85	63
LOS ANGELES	34	092-86-0660	08/27/85			08	12/09/85	104
LOS ANGELES	34	092-86-0662	12/05/85			00	12/09/85	4
LOS ANGELES	34	092-86-0665	12/06/85			00	12/06/85	0
LOS ANGELES	34	092-86-0680	11/27/85			00	11/27/85	0
LOS ANGELES	34	092-86-0697	10/10/85			00	10/10/85	0
LOS ANGELES	34	092-86-0747	12/19/85			00	12/30/85	1
LOS ANGELES	34	092-86-0758	11/30/85			00	11/30/85	0
LOS ANGELES	34	092-86-0760	12/19/85	12/30/87	741	00	12/26/85	7
LOS ANGELES	34	092-86-0764	10/28/85			00	12/26/85	67
LOS ANGELES	34	092-86-0818	06/11/85	08/18/87	798	00	01/07/86	210
LOS ANGELES	34	092-86-0823	12/10/85			00	12/10/85	0
LOS ANGELES	34	092-86-0906	10/02/85			00	01/17/86	107
LOS ANGELES	34	092-86-0959	01/17/86			00	01/23/86	6
LOS ANGELES	34	092-86-0966	06/01/85	07/24/87	783	17	01/24/86	237
LOS ANGELES	34	092-86-1061	10/01/84	05/29/87	970	20	02/10/86	497
LOS ANGELES	34	092-86-1103	01/06/86			00	02/14/86	39
LOS ANGELES	34	092-86-1206	08/01/84	09/30/87	1155	02	02/24/86	372
LOS ANGELES	34	092-86-1256	05/02/85	09/30/87	881	08	02/28/86	302
LOS ANGELES	34	092-86-1446	05/01/85	08/27/87	848	00	03/13/86	316
LOS ANGELES	34	092-86-1513	11/01/85			20	03/20/86	139
LOS ANGELES	34	092-86-1536	01/31/86			20	04/01/86	60
LOS ANGELES	34	092-86-1542	12/20/85			20	03/25/86	95
LOS ANGELES	34	092-86-1602	03/01/85	01/28/88	1063	00	05/07/85	67

District Office	Code	Charge Number	Violation Date	Closure Date	# Days	Reason Code	Date Received	# Days After
LOS ANGELES	34	092-86-1615	06/18/85	08/06/87	779	14	04/24/87	675
LOS ANGELES	34	092-86-1665	08/19/85			08	04/07/86	231
LOS ANGELES	34	092-86-1696	01/03/85	09/30/87	1000	02	04/09/86	461
LOS ANGELES	34	092-86-1729	08/15/85	07/23/87	768	16	04/10/86	299
LOS ANGELES	34	092-86-1795	07/01/85			08	04/17/86	290
LOS ANGELES	34	092-86-1818	11/01/85			00	04/21/86	171
LOS ANGELES	34	092-86-1878	12/01/85			00	04/28/86	148
LOS ANGELES	34	092-86-1895	01/19/86			00	04/29/86	100
LOS ANGELES	34	092-86-1898	06/25/85	08/21/87	787	20	04/29/86	308
LOS ANGELES	34	092-86-1995	11/08/85			00	05/08/86	181
LOS ANGELES	34	092-86-2188	09/30/85			23	06/02/86	245
LOS ANGELES	34	092-86-2239	11/20/85			00	06/06/86	198
LOS ANGELES	34	092-86-2240	11/26/85			00	06/06/86	192
LOS ANGELES	34	092-86-2246	12/01/85			20	06/09/86	190
LOS ANGELES	34	092-86-2413	07/31/83	07/24/87	1454	15	07/03/86	1068
LOS ANGELES	34	092-86-3442	04/16/85	06/11/87	786	04	07/08/86	448
LOS ANGELES	34	092-86-2514	08/22/86			00	08/22/86	0
LOS ANGELES	34	092-86-2648	08/01/85			00	07/31/86	364
LOS ANGELES	34	092-86-2755	07/15/85	09/25/87	802	00	08/07/86	388
LOS ANGELES	34	092-86-2764	02/01/85	03/20/87	777	00	08/11/86	334
LOS ANGELES	34	092-86-2921	10/31/85			00	08/29/86	302
LOS ANGELES	34	092-86-2982	03/11/85	09/11/87	914	19	08/27/86	534
LOS ANGELES	34	092-86-5501	06/14/85	09/30/87	838	08	02/12/86	243
LOS ANGELES	34	092-86-5825	04/07/85	09/29/87	905	02	04/28/84	386
LOS ANGELES	34	092-86-7553	02/21/85	03/05/87	742	00	11/20/85	272
LOS ANGELES	34	092-86-8810	09/27/85			20	07/15/86	291
LOS ANGELES	34	092-86-9023	07/31/85	08/27/87	757	00	09/11/86	407
LOS ANGELES	34	092-86-9107	12/01/85			00	09/23/86	296
LOS ANGELES	34	094-84-0113	12/16/83	03/29/87	1199	00	01/09/84	24
LOS ANGELES	34	094-85-0289	02/13/85	09/30/87	959	11	03/22/85	37
LOS ANGELES	34	101-86-0566	03/26/83	04/23/87	756	08	11/25/85	242
LOS ANGELES	34	311-86-1747	03/28/84	04/17/87	1115	00	09/24/86	910
LOS ANGELES	34	340-87-0005	12/01/85			00	10/01/86	304
LOS ANGELES	34	340-87-0019	12/01/85			00	10/02/86	305
LOS ANGELES	34	340-87-0197	09/14/85			10	10/27/86	408
LOS ANGELES	34	340-87-0211	08/19/85	08/25/87	736	00	10/27/86	434
LOS ANGELES	34	340-87-0223	07/01/85	08/27/87	787	00	10/27/86	483
LOS ANGELES	34	340-87-0447	01/13/86			00	11/24/86	315
LOS ANGELES	34	340-87-0768	01/01/86			06	01/23/87	387
LOS ANGELES	34	340-87-0825	01/01/86			00	01/30/87	394
LOS ANGELES	34	340-87-0914	12/01/85			13	12/01/85	0
LOS ANGELES	34	340-87-1122	01/21/86			00	03/06/87	409

LOS ANGELES	34	340-87-2061	01/01/86			12	01/01/86	0
LOS ANGELES	34	340-88-0226	11/01/85			14	11/01/85	0
LOS ANGELES	34	992-86-0834	11/19/85	12/31/87	772	00	01/09/86	51
MILWAUKEE	36	055-85-2445	04/29/85			18	05/07/87	738
MILWAUKEE	36	055-86-2087	12/09/85			18	07/24/87	592
MILWAUKEE	36	055-86-2165	07/17/85			18	05/07/87	659
MILWAUKEE	36	210-87-0465	01/01/85			07	06/04/87	884
MILWAUKEE	36	210-87-0473	07/12/85			07	06/04/87	692
MILWAUKEE	36	210-87-0505	01/10/86			07	06/04/87	510
MINNEAPOLIS	37	076-86-0096	08/05/85			20	12/20/85	137
MINNEAPOLIS	37	076-86-0099	08/30/85			20	01/02/86	125
MINNEAPOLIS	37	076-86-0203	10/15/85			20	01/31/86	108
MINNEAPOLIS	37	268-87-0196	09/01/85			14	03/31/87	576
MINNEAPOLIS	37	268-87-0200	08/16/85			14	03/25/87	586
PHOENIX	38	050-87-0050	11/24/84	12/30/86	766	10	10/14/86	689
PHOENIX	38	063-86-0634	06/11/85	09/17/87	828	12	04/15/86	308
PHOENIX	38	093-82-2369	09/09/82	12/11/87	1919	15	02/27/86	1267
PHOENIX	38	095-84-0062	10/03/83	01/22/87	1207	00	12/12/83	70
PHOENIX	38	095-84-2202	08/07/84	11/20/86	835	13	08/28/85	386
PHOENIX	38	095-84-2305	03/31/84	11/04/86	948	12	09/13/85	531
PHOENIX	38	095-85-0753	01/10/84	04/29/87	1208	00	01/30/84	20
PHOENIX	38	095-85-2017	07/01/85	07/28/87	757	20	07/19/85	18
PHOENIX	38	095-85-2064	07/16/85	08/26/87	771	04	07/26/85	10
PHOENIX	38	095-86-0220	08/07/85	11/30/87	845	11	11/05/85	90
PHOENIX	38	095-86-0542	11/22/85	11/30/87	738	10	11/22/85	0
PHOENIX	38	095-86-0446	03/21/85	03/23/87	732	12	12/09/85	263
PHOENIX	38	095-86-0447	02/25/85	03/27/87	760	12	12/09/85	287
PHOENIX	38	095-86-0448	02/27/85	03/10/87	741	12	12/09/85	285
PHOENIX	38	095-86-0450	03/01/85	03/27/87	756	12	12/09/85	283
PHOENIX	38	095-86-1106	06/01/85	06/30/87	759	12	04/04/86	307
PHOENIX	38	095-86-1440	08/12/85	08/21/87	739	12	05/27/86	288
PHOENIX	38	095-86-1515	08/07/85	08/31/87	754	12	06/05/86	302
PHOENIX	38	095-86-1753	11/11/85	11/30/87	749	02	07/03/86	234
PHOENIX	38	350-87-0857	07/30/85	11/30/87	853	12	06/30/87	700
ST.LOUIS	40	071-84-2438	09/01/84	12/24/86	844	16	09/18/84	17
ST. LOUIS	40	071-85-0822	01/14/85	04/30/87	836	18	01/28/85	14
ST. LOUIS	40	071-85-1775	03/29/85	04/30/87	762	18	06/03/85	66
ST. LOUIS	40	071-85-2049	03/01/85	04/30/87	790	18	07/18/85	139
ST. LOUIS	40	072-82-0987	05/05/82		0	20	05/05/82	0
ST. LOUIS	40	072-83-1033	11/19/82	07/31/87	1715	21	05/06/83	168
ST. LOUIS	40	072-84-0857	05/08/84	04/30/87	1148	16	05/08/84	0
ST. LOUIS	40	072-84-1048	05/22/84	04/21/87	1125	00	04/10/84	19
ST. LOUIS	40	072-84-1218	10/31/83	10/31/86	1096	12	05/01/84	183
ST. LOUIS	40	072-84-1264	05/04/84	01/30/87	1031	16	05/07/84	3

ST. LOUIS	40	072-84-1862	03/26/84	03/20/87	1089	02	08/17/84	144
ST. LOUIS	40	072-84-2084	09/21/84	11/24/86	794	16	09/24/84	3
ST. LOUIS	40	072-84-2211	08/03/84	10/31/86	819	20	08/22/84	19
ST. LOUIS	40	072-85-0379	10/01/84	10/31/86	760	00	12/06/84	66
ST. LOUIS	40	072-85-0427	10/05/84	07/31/87	1029	00	12/25/84	84
ST. LOUIS	40	072-85-0687	07/02/84	12/01/86	882	12	02/04/85	217
ST. LOUIS	40	072-85-0950	10/08/84	11/28/86	781	00	03/22/85	165
ST. LOUIS	40	072-85-1090	08/30/84	12/12/86	834	18	03/01/85	183
ST. LOUIS	40	072-85-1267	03/29/85	04/29/87	761	00	05/20/85	52
ST. LOUIS	40	072-85-1279	03/06/85	12/22/87	1021	21	03/07/85	1
ST. LOUIS	40	072-85-1936	07/29/85	09/30/87	793	00	09/10/85	43
ST. LOUIS	40	072-86-0017	05/05/85	05/19/87	744	00	10/01/85	149
ST. LOUIS	40	072-86-0040	08/12/85	09/09/87	758	20	10/17/85	66
ST. LOUIS	40	072-86-0225	06/21/85	10/11/87	842	16	11/27/85	159
ST. LOUIS	40	072-86-0336	06/20/85	08/13/87	784	20	12/17/85	180
ST. LOUIS	40	072-86-0340	11/29/85	01/05/88	767	00	12/04/85	5
ST. LOUIS	40	072-86-0383	08/30/85	11/12/87	804	16	12/30/85	122
ST. LOUIS	40	072-86-0397	10/15/85	11/30/87	776	00	12/30/85	76
ST. LOUIS	40	072-86-0436	07/31/85	01/27/88	910	12	01/21/86	174
ST. LOUIS	40	072-86-0448	11/11/85	12/21/87	770	16	01/21/86	71
ST. LOUIS	40	072-86-0477	07/30/85	12/21/87	874	16	01/09/86	163
ST. LOUIS	40	072-86-0564	08/30/85	11/10/87	802	16	02/11/86	165
ST. LOUIS	40	072-86-0715	07/31/85		0	21	02/27/86	211
ST. LOUIS	40	072-86-0754	09/01/84	03/31/87	941	14	02/24/86	541
ST. LOUIS	40	072-86-0796	09/10/85	09/21/87	741	20	03/12/86	183
ST. LOUIS	40	072-86-0849	03/31/85	05/11/87	771	12	03/17/86	351
ST. LOUIS	40	072-86-0857	08/08/85	09/30/87	783	00	03/17/86	221
ST. LOUIS	40	072-86-0913	05/01/85	01/19/88	993	12	03/31/86	334
ST. LOUIS	40	072-86-0916	11/01/85		0	11	04/03/86	153
ST. LOUIS	40	072-86-1284	12/10/85		0	12	06/21/86	195
ST. LOUIS	40	072-86-1318	09/30/85		0	21	06/16/86	259
ST. LOUIS	40	072-86-1382	06/28/85	07/23/87	755	06	06/25/86	362
ST. LOUIS	40	072-87-0305	02/01/85	07/23/87	902	12	12/11/86	678
ST. LOUIS	40	080-86-1774	07/25/85		0	14	09/10/86	412
ST. LOUIS	40	080-87-0749	10/11/85		0	14	03/02/87	507
ST. LOUIS	40	080-87-1143	12/15/85		0	14	05/29/87	530
ST. LOUIS	40	082-86-0537	11/09/85		0	00	12/09/86	395
ST. LOUIS	40	280-86-1641	10/31/85	12/10/87	770	12	08/11/86	284
ST. LOUIS	40	280-87-0497	03/24/83	04/30/87	1498	06	02/04/87	1413
ST. LOUIS	40	280-87-0759	01/31/79	07/29/87	3101	06	03/24/87	2974
ST. LOUIS	40	280-87-1036	03/02/85	12/01/87	1004	06	05/04/87	793
KANSAS CITY	41	071-85-1042	02/13/85	05/01/87	807	09	02/25/85	12
KANSAS CITY	41	071-85-1339	03/29/85	01/16/87	658	09	04/02/85	4
KANSAS CITY	41	071-85-1388	02/04/85	02/27/87	753	09	04/10/85	65

KANSAS CITY	41	071-85-1431	03/11/85		0	09	04/14/85	32
KANSAS CITY	41	071-85-1576	04/30/85	05/28/85	28	09	05/06/87	738
KANSAS CITY	41	071-85-1591	03/28/85		0	09	05/10/85	43
KANSAS CITY	41	071-85-1592	03/28/85		0	00	05/10/85	43
KANSAS CITY	41	071-85-1650	05/15/85	12/28/87	957	09	05/17/85	2
KANSAS CITY	41	071-85-1942	06/14/85	09/30/87	838	09	07/02/85	18
KANSAS CITY	41	071-85-1981	11/13/84	11/28/86	745	09	07/11/85	240
KANSAS CITY	41	071-35-2117	05/18/85	12/28/87	954	09	07/29/85	72
KANSAS CITY	41	071-86-0210	06/07/85	02/16/88	984	09	11/04/85	150
KANSAS CITY	41	071-86-0254	11/05/85		0	09	11/12/85	7
KANSAS CITY	41	071-86-0337	06/06/85	11/23/87	900	09	11/20/85	167
KANSAS CITY	41	071-86-0470	03/01/85	05/12/87	802	09	11/27/85	271
KANSAS CITY	41	071-86-0542	11/27/85	12/28/87	761	09	12/04/85	7
KANSAS CITY	41	071-86-0647	02/25/85	02/02/88	1072	09	12/19/85	297
KANSAS CITY	41	071-86-0660	05/16/85		0	09	12/23/85	221
KANSAS CITY	41	071-86-0680	03/01/85	05/01/87	791	09	12/26/85	300
KANSAS CITY	41	071-86-0765	12/23/85		0	09	01/08/86	16
KANSAS CITY	41	071-86-0820	01/16/86		0	09	01/16/86	0
KANSAS CITY	41	071-86-1081	12/13/85	12/31/87	748	09	12/27/85	14
KANSAS CITY	41	071-86-1141	11/30/85		0	00	02/28/86	90
KANSAS CITY	41	071-86-1258	04/10/85	04/30/87	750	09	05/12/86	336
KANSAS CITY	41	071-86-1306	08/06/85	12/10/87	856	09	03/18/86	224
KANSAS CITY	41	071-86-1331	01/02/86		0	09	03/21/86	78
KANSAS CITY	41	071-86-1580	01/09/86		0	09	04/25/86	106
KANSAS CITY	41	071-86-1670	10/30/85		0	12	05/08/86	190
KANSAS CITY	41	281-87-1345	04/30/85	09/24/87	877	09	08/03/87	825
EL PASO	43	061-84-3286	08/20/84	12/31/87	1228	09	04/30/85	253
EL PASO	43	082-85-0083	10/26/84	01/14/88	1177	09	11/20/84	27
EL PASO	43	082-85-0167	08/07/84	01/09/88	1256	09	01/28/85	180
EL PASO	43	082-85-0171	01/23/85	09/29/87	979	09	01/30/85	7
EL PASO	43	082-85-0345	04/30/85	12/31/87	975	09	04/30/85	0
EL PASO	43	082-85-0381	07/20/84	01/09/88	1268	12	05/10/85	294
EL PASO	43	082-85-0483	11/05/84	01/29/88	1182	12	06/19/85	228
EL PASO	43	082-85-0524	06/12/85	12/31/87	932	09	07/03/85	21
EL PASO	43	082-85-0526	06/13/85	01/09/99	4958	09	07/03/85	20
EL PASO	43	082-85-0608	06/14/85	01/20/88	950	09	07/29/85	45
EL PASO	43	082-85-0639	06/30/85	09/29/87	821	09	08/15/85	46
EL PASO	43	082-85-0700	08/28/85	01/08/88	863	09	08/25/87	727
EL PASO	43	082-86-0057	08/01/85	01/08/88	890	09	10/24/85	84
EL PASO	43	082-86-0152	08/12/85	01/19/88	890	09	11/27/85	107
EL PASO	43	082-86-0263	09/16/85	11/18/87	793	09	01/10/86	116
EL PASO	43	082-86-0264	09/16/85	11/18/87	793	09	01/10/86	116
EL PASO	43	082-86-0313	12/31/85	01/11/88	741	09	01/28/86	28

EL PASO	43	082-86-0319	01/13/86	01/14/88	731	09	01/30/86	17
EL PASO	43	082-86-0459	12/31/85	02/05/88	766	09	05/19/86	139
EL PASO	43	082-86-0477	01/14/86	01/19/88	735	09	03/31/86	76
EL PASO	43	082-86-0480	12/09/85	01/12/88	764	09	03/31/86	112
EL PASO	43	082-86-0558	07/22/85	09/29/87	799	12	05/05/86	287
EL PASO	43	082-86-0669	10/08/85	01/09/88	823	12	06/20/86	255
EL PASO	43	082-86-0680	09/23/85	01/03/88	837	13	12/24/86	457
EL PASO	43	315-88-0017	01/16/84	01/28/88	1473	15	10/08/87	1361
SEATTLE	48	083-85-0098	10/04/84			14	02/01/86	485
SEATTLE	48	083-85-0483	12/12/84	09/30/87	1022	00	01/25/85	44
SEATTLE	48	083-85-0838	12/17/84	03/25/87	828	05	03/26/85	99
SEATTLE	48	083-85-0847	10/10/84	11/04/86	755	00	03/27/85	168
SEATTLE	48	083-85-1141	01/21/85	05/29/87	858	13	05/24/85	123
SEATTLE	48	083-85-1142	02/05/85	05/26/87	840	13	02/24/85	19
SEATTLE	48	092-86-2270	09/04/85	11/19/87	806	15	09/01/87	727
SEATTLE	48	092-86-2882	10/31/85	11/04/87	734	12	08/25/86	298
SEATTLE	48	092-86-7098	08/17/85	02/03/88	900	11	06/03/86	290
SEATTLE	48	101-85-0876	11/01/84	04/23/87	903	00	12/11/84	40
SEATTLE	48	101-85-1093	12/27/84	03/13/87	806	10	10/02/85	279
SEATTLE	48	101-85-2163	03/07/85	09/30/87	937	13	09/30/86	572
SEATTLE	48	101-85-2733	02/16/85	02/26/87	740	00	04/08/85	51
SEATTLE	48	101-85-3437	05/24/85	06/03/87	740	20	05/29/85	5
SEATTLE	48	101-85-3611	02/04/85	08/28/87	935	00	06/10/85	126
SEATTLE	48	101-85-4396	06/24/85	07/29/87	765	10	09/30/86	463
SEATTLE	48	101-85-4522	11/25/84	11/26/86	731	12	07/31/85	248
SEATTLE	48	101-85-5103	09/04/85	09/09/87	735	00	09/24/85	20
SEATTLE	48	101-86-0125	09/19/85			10	10/18/85	29
SEATTLE	48	101-86-0126	07/12/85	08/24/87	773	17	10/18/85	98
SEATTLE	48	101-86-0254	08/06/85	09/16/87	769	10	10/29/85	82
SEATTLE	48	101-86-0679	11/01/85			20	12/12/85	41
SEATTLE	48	101-86-0680	05/30/85	06/17/87	748	12	12/13/85	197
SEATTLE	48	101-86-0732	05/10/85	05/29/87	749	12	12/17/85	221
SEATTLE	48	101-86-0741	01/31/85	07/03/87	883	13	12/19/85	322
SEATTLE	48	101-86-0778	07/26/85	09/30/87	796	13	09/30/86	431
SEATTLE	48	101-86-0846	01/07/85	04/17/87	830	14	01/13/86	371
SEATTLE	48	101-86-0891	09/01/85	09/16/87	745	10	01/03/86	124
SEATTLE	48	101-86-0965	08/19/85	09/03/87	745	17	05/06/86	199
SEATTLE	48	101-86-0966	08/19/85	09/28/87	770	00	11/13/86	431
SEATTLE	48	101-86-0978	02/02/85	03/24/87	780	20	01/15/86	347
SEATTLE	48	101-86-0980	12/14/84	03/24/87	830	20	01/15/86	397
SEATTLE	48	101-86-1131	07/01/85	07/15/87	744	00	01/29/86	212
SEATTLE	48	101-86-1407	11/11/85			18	02/24/86	105
SEATTLE	48	101-86-1469	05/22/85	03/23/87	731	12	02/28/86	343

District Office	Code	Charge Number	Violation Date	Closure Date	# Days	Reason Code	Date Received	# Days After
SEATTLE	48	101-86-1593	09/12/85	09/30/87	748	13	10/29/86	412
SEATTLE	48	101-86-1643	07/21/85	08/11/87	751	02	03/11/86	233
SEATTLE	48	101-86-1652	08/31/85	10/16/87	776	13	07/16/87	684
SEATTLE	48	101-86-1984	01/15/86			18	04/17/86	92
SEATTLE	48	101-87-0473	01/01/85	07/03/87	913	15	02/04/87	764
SEATTLE	48	172-87-0405	10/01/85	02/04/88	856	13	01/21/87	477
SEATTLE	48	380-86-2295	11/10/84	12/11/86	761	20	05/07/86	543
SEATTLE	48	380-87-0037	06/28/85	09/02/87	796	13	10/09/86	468
SEATTLE	48	380-87-0505	01/01/86			17	12/10/86	343
SEATTLE	48	380-87-0536	01/28/85	04/27/87	819	14	12/19/86	690
SEATTLE	48	380-87-0592	12/17/84	04/27/87	861	15	01/05/87	749
SEATTLE	48	380-87-0701	12/01/85	02/03/88	794	11	02/02/87	428
SEATTLE	48	380-87-1108	04/30/85	06/03/87	764	15	04/17/87	717
SEATTLE	48	380-87-1373	07/01/85			15	06/16/87	715
SEATTLE	48	380-87-1422	12/14/85			14	06/24/87	557

*** Total Record Count = 1608

Appendix III

Documents Gathered During the Special Committee on Aging Inquiry into the Performance of the Equal Employment Opportunity Commission in Enforcing the Age Discrimination in Employment Act

(Exhibit 11)

EEOC

NOTICE

(Automatically Cancelled in Three Days)

NUMBER

DATE

1. SUBJECT: Limited Scope Commissioner Charges.

2. PURPOSE: This ninety-day notice is intended to provide interim guidance on the development and processing of Limited Scope Commissioner Charges to be processed by ELI rather than Systemic Units.

3. ORIGINATOR: Office of Program Operations.

4. EFFECTIVE DATE: Upon receipt.

5. INSTRUCTION: Limited Scope Section 706 Commissioner Charges may be developed to address employment discrimination issues beyond the scope of a Commissioner which do not lend themselves to processing by Systemic Units. (See CM Section 16.2.) Limited Scope Commissioner Charges differ from Commissioner initiated charges and systemic charges in that Limited Scope Charges are proposed initially by the field offices and do not involve field systemic targets.

   A. Definition: Limited Scope Commissioner Charges shall involve matters of such significant enforcement potential that they meet one or more of the Commission's substantive standards for the selection of systemic charges but do not fall within the administrative parameters of the Commission's systemic program. Thus, in most circumstances, these charges will involve only one facility and will include a limited number of bases or issues.

   Charges will be proposed by District Directors when there is evidence of a probable Title VII violation carrying significant enforcement potential which cannot be addressed by an existing Title VII charge. The need for Limited Scope Commissioner Charges will generally arise in one of the following ways:

   (1) During the course of an investigation under the Equal Pay Act or the Age Discrimination in Employment Act, probable Title VII violations are uncovered and no appropriate Title VII charge exists with which the issues and/or bases can be incorporated.

   (2) Information comes to the attention of the District Office which strongly suggests that a respondent is engaging in a practice made unlawful by Title VII, but no Title VII charge has been filed alleging the discriminatory conduct.

DISTRIBUTION: All Compliance Manual Holders

EEOC FORM 106, MAR 72

Atlanta District Office
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Citizens Trust Building, Suite 1150
75 Piedmont Avenue, N.E.
Atlanta, Georgia 30335

July 12, 1983

MEMORANDUM

TO: Mose Rayford

THRU: R. Taylor - Fact-Finding II
Supervisor

THRU: T. McPherson, Jr., Compliance Manager

THRU: G. Duke Beasley
Deputy District Director

FROM: George Frank Jordan
District Director

SUBJ: FY-83 Performance

GPADS require, among other things, that you complete at least sixty three (63) charges between April 1, 1983 and September 30, 1983.

In view of the requirement to complete sixty three (63) charges by September 30, 1983, you should have completed at least 31.5 charges by June 30, 1983.

Therefore, to ensure your completing the 63 charges required on or before September 30, 1983, you must complete an average of at least 12⅓ charges for the months of July, August and September 1983.

The month of June provided conclusive proof that when we marshal our resources, strengthen our resolve and work together, we can accomplish much.

The extra effort manifested during June 1983 is greatly appreciated.

I. POLICY

1. Fact-Finding Conference Removal

Fact-Finding Conferences were consistently held where the processing of a given charge warranted such a conference thoughout Fiscal Year 1983. Fact-Finding remains a part of the procedures established by the Commission and utilized to process charges. Instructions have been given and remain in effect that where there is a charge that warrants a Fact-Finding Conference, it is held. Further, that where it is not appropriate to hold a Fact-Finding Conference, the conference is not held.

During the month of October, neither Fact-Finding Conferences nor Field Investigations were conducted. Each charge has been and continues to be processed in the Atlanta District Office consistently with existing procedures authorized by the Commission.

As a result of the staff/charge ratios in the Fact-Finding, Continued Investigations and Conciliations and Intake Units, it was determined appropriate to assign staff to various other functions. Upon recommendation of the two Compliance Managers, those shifts were made. (See Attachments dated June 27, 1983 and June 28, 1983)

2. Institution of Expanded Presence and

3. Voluntary Assistance

Prior to and during September, 1983, District Office Managers were informed of the thrust to be given to these programs. During the District Directors September meeting, it was mentioned again that these programs were to be given a major thrust. The Commission approved the basic Voluntary Assistance Program concept while this meeting was still in session. The headquarters office having responsibility for the new program identified Atlanta as one of the offices selected to participate in the pilot Voluntary Assistance effort. Subsequent to that meeting to the present, the Atlanta District Office has engaged in planning for putting these programs into operation. And, while this planning has been extensive, these programs have not yet been instituted.

However, as a result of media contact by the Office of Public Affairs and other headquarter offices, this office has continuously received inquiries regarding the availability of these services to the community.

4. Effect of Removal of CIC/Other Units

The Continued Investigations and Conciliations units still exist and have continually to this date. These functions are being performed in the Atlanta District Office.

5. Handling of Merit Pay Agreements

Merit Pay Agreements and appraisals were handled as required by EEOC Order 550, dated December 27, 1982. This order provides for a meeting between the employee and the appraising official to determine the actual degree of attainment of performance standards at the end of the rating period.

The order also provide for this potential rating to be discussed by the appraising and reviewing officials before it is final. The reviewing official is responsible for determining the need to modify job elements and performance standards, reviewing the overall performance evaluation, and making adjustments as appropriate.

Merit Pay employees, including Compliance Managers, were informed that their initial/potential ratings were not final until reviewed by the reviewing official.

II. MANAGERIAL DECISIONS

1. Movement of Personnel Without Position Descriptions

Employees have not been moved without position descriptions.

a. Pennington

Positions at the GS-12 grade level are covered by standard position description. This description covers the various laws and functions administered by by the EEOC, including the duties assigned, as present areas of concentration, to Mr. Pennington.

b. Jones

Ms. Jones was assigned to a supervisory position at the GS-13 grade level prior to her departure on

extended leave. She was away from the office for approximately one year. During that time, her supervisory duties were assigned to another supervisor and her supervisory position consumed as the Backlog units were dissolved and other supervisors had to be placed.

Since her return to the office, Ms. Jones has been assigned to unclassified duties for a period up to 120 days as provided for in OPM regulations.

2. Reason for Such a High Directed Caseload

The majority of the charges filed by charging parties with the Atlanta District Office have concerned themselves with individual harm. However, as indicated in response to I. 1, above, the workload of the Atlanta District Office during the fourth quarter of Fiscal Year 1983 allowed an opportunity to use some staff resources to research various data bases to determine the graphic area were operating in compliance with the provisions of the laws we administer.

With this staff available and our mission in mind, we looked at employers using certain barometers to determine if they should potentially be subject to Directed Investigations and Limited Scope Charges. The barometers included:

1. Title VII

As set forth by Notice, as published in the CCH, the three (3) ways that Limited Scope Charges would generally arise: i.e. (1) During the course of an investigation under the Equal Pay Act or the Age Discrimination in Employment Act, probable Title VII violations are uncovered and no appropriate Title VII charge exists with which the issues and/or bases can be incorporated. (2) Information comes to the attention of the District Office which strongly suggests that a respondent is engaging in a practice made unlawful by Title VII, but no Title VII charge has been filed alleging the discriminatory conduct. (3) The Regional Attorney advises the Commission litigation vehicle would be substantially strengthened by a new charge which addresses procedural or remedial issues presented in the litigation of a Commission complaint.

Each Limited Scope Charge initiated was in compliance with those established procedures and did comport with other relevant procedural regulations.

2. Equal Pay Act

Section 122.4 of Compliance Manual, Volume 1 states in pertinent part that a particular respondent may be scheduled for directed investigations based upon data in each district office's industries/occupations and issues lists or based upon leads submitted by EPA, EOS or other staff.

By reviewing our data base, including previous charges filed against Respondents along with the utilization of additional data, we were able to identify respondents that were targeted for directed investigations. The procedures followed adhered to established policies, practices and procedures.

3. Age Discrimination in Employment Act

Section 222.2 of Compliance Manual, Volume 1 states in pertinent part that a directed investigative activity constitutes a necessary part of the ADEA Unit's enforcement program. The unit supervisor may select from the ADEA, ELI respondent or issues list or the investigation may be based on leads submitted by an EOS or other staff members. Productive leads may be developed by using the following basic sources of information with appropriate local variations:

a. Information obtained while investigating a charge;
b. Information from Newspapers or other Publications;
c. Working relationships with employees of other agencies;
d. Union officials and officials of industrial and trade associations;
e. Prior history of Age Discrimination allegations.

Utilizing existing compliance procedures as set forth above, the directed investigations implemented to

enforce Title VII, Equal Pay Act and Age Discrimination in Employment Act were in order, and did go to maximizing our efforts under these laws we have been charged to enforce.

3. Managerial Involvement in Employee Ratings

See I. 5 above for discussion on Merit Pay employees. Also, EEOC Order 542, GPADs, provides for a similar determination by the reviewing official as to the need to modify job elements and performance standards and to adjust appraisals as appropriate. Further, while the reviewing official is normally the appraising official's immediate supervisor, this does not negate the responsibility of the District Director for overall operation and management of the office, to include ensuring consistency of elements, performance standards, and performance appraisals by subordinate appraising officials.

4. Environmental Concerns Without Prior Guidelines

Each employee entered into a Merit Pay or GPAD contract, which contained the job element and standards for maintaining their offices. The element and standards were as follows:

Job Element: Maintain proper office environment conducive to the efficient conduct of business.

Standard: Meet: Offices, desks, files are kept neat and business-like, e.g., hall and passage ways are kept free of clutter; walls have only properly hung pictures, posters, plaques, certificates, etc., public areas are kept neat and inviting.

No Exceed: If met, standard not considered in final rating. If not met, standard is considered in final rating.

Each employee knew of the job element and standard and signed the contract acknowledging them. Guidelines regarding this matter are indicated in the contract and other instructional memoranda received from the national office and distributed to each employee.

III. COMMUNICATION

1. Lack of Informational Meetings With Supervisory Staff

Periodic informational meetings have been held with supervisory staff. Frequent meetings have been conducted by the Compliance Managers with a major purpose of relaying information resulting from TMC and other management meetings. District Office Management has met with supervisors as a group, as individuals and with their employees, as necessary.

Also, monthly training meetings are conducted the first Monday of each month with the entire staff.

2. Lack of Supervisory Knowledge Re: Movement of Personnel

The need to shift employees to different areas of concentration based on employee/workload ratios, by functional area, was discussed with Compliance Managers and Supervisors were kept informed.

The decisions on which specific employees were to be shifted to specific functional areas and to specific supervisors was not discussed extensively. Such extensive discussion was curtailed, in part, to avoid the former practice of permitting supervisors to "pick" employees which resulted in "dump" of some, and shifting "problems" between supervisors. Supervisors will be required to "supervise" all employees to include assignment of work, evaluation of performance and initiating corrective action to improve performance as necessary.

3. Failure to Include Compliance Managers in TMC and Other Decision-Making Processes

Compliance Managers have been continually involved in the decisions made in the Atlanta District Office. At one point, brief management meetings were held each morning at 9:00. However, based on a determination that the frequency with which these meetings were held was no longer necessary, the schedule was changed so that such meetings are presently held as necessary, from once to several times a week. On other occasions, the District Director and/or Deputy District Director meet with the Compliance Managers to consider matters that impacted on them and their specific areas of responsibility.

Ex. 10

QUESTIONS

I. POLICY

1. Fact-Finding Conference Removal
2. Institution of Expanded Presence
3. Institution of Voluntary Assistance
4. Effect of Removal of CIC/Other Units
5. Handling of Merit Pay Agreements

II. MANAGERIAL DECISIONS

1. Movement of Personnel Without Position Descriptions
   a. Pennington
   b. Jones
2. Reasons for Such a High Directed Caseload
3. Managerial Involvement in Employee Ratings
4. Environmental Concerns Without Prior Guidelines

III. COMMUNICATION

1. Lack of Information Meeting Without Supervisory Staff
2. Lack of Supervisory Knowledge Re: Movement of Personnel
3. Failure to Include Compliance Managers in TMC and Other Decision-Making Processes

Jab 81

TO : Regional Attorney
Compliance Managers
Supervisors

DATE: 7/15/83

In reply refer to:

FROM : G. Duke Beasley
Deputy Director

SUBJECT: Office Appearance

The attached memorandum is shared with you for conveyance to your respective staff members, the urgency in putting each house in order.

A check of all office space will be made on or before July 20, 1983 and any person's office that reflects an unsafe or unsightly condition will be appropriately counselled and/or disciplined.

You are once again reminded that:

1. Office hours are 8:30 AM to 5:00 PM
2. No reading of newspapers during hours of work
3. All notes, cartoons and unprofessional materials will be removed from walls.
4. Only EEOC work will transpire in our offices.

Your immediate attention should be given to this matter.

BUY U.S. SAVINGS BONDS REGULARLY ON THE PAYROLL SAVINGS PLAN

(Exhibit-11)

N- 915

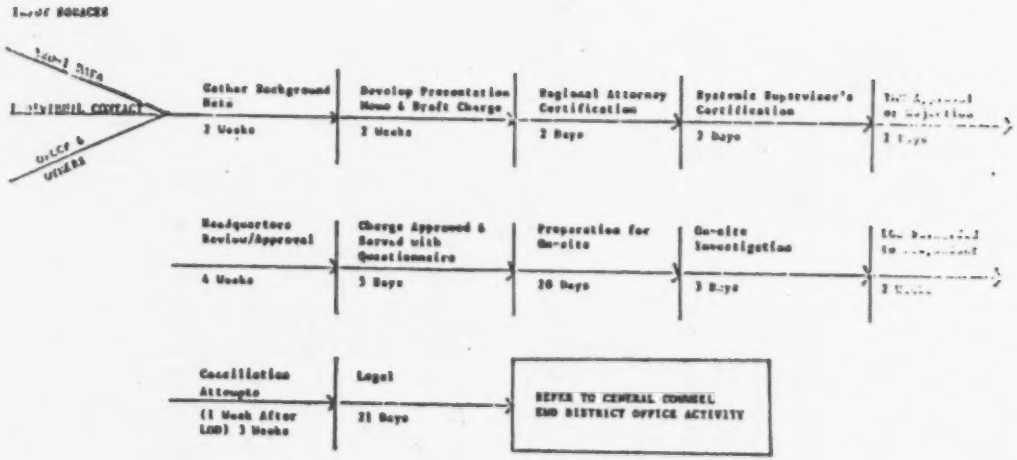
If a Commissioner approves the charge, it will be signed and returned to the Office of Program Operations. The Office of Program Operations will provide a copy of the charge to the Office of General Counsel. The appropriate Regional Director will then mail the charge to the District Office along with a partially completed acknowledgement of receipt (see Exhibit 3-B in Section 3 of the Compliance Manual). The receipt is to be completed and returned by the District Office to the Regional Director.

Notice of the charge will be served on the respondent within ten days of receipt of the signed charge by the District Office. Refer to Section 3.6(c) for processing instructions in deferral jurisdictions. Responsibility for investigation of the limited scope charge will be assigned by the District Director. The charge will be designated as an ELI, and an attorney from the Legal Unit will coordinate with the EOS to whom the charge was assigned during the processing of the charge.

Approved: John Schacher for OS
Joessa M. Shannon, Director
Office of Program Operations

ATTACHMENT 3

LIMITED SCOPE CHARGE



(Exhibit 11)

UNITED STATES GOVERNMENT

Memorandum

Atlanta District Office
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Citizens Trust Building
75 Piedmont Avenue, N. E.
Atlanta, Georgia 30303

TO : All ATDO Personnel

DATE: August 4, 1983

In reply refer to:

FROM : George Frank Jordan
District Director GFJ

Jat 5

SUBJECT: Limited Scope Commissioner Charges

N-915, dated June 24, 1983 (attached), establishes a new EEOC compliance activity. The ATDO is in the forefront in implementing this program. We have organized three ELI/Limited Scope Commissioner Charge Units under the supervision of Mr. Rantin, Mr. Townsend and Mr. Gaither. In order for the program to work at maximum efficiency, we need the continuing assistance, resources and vigilance of all personnel.

Some specific ways ATDO personnel should support the program are:

1. When serving as an Intake Officer or during any communication with a potential charging party. If the PCP is reluctant to file a charge on his/her own behalf or has meritorious information on class discrimination at a respondent location but does not file a charge, refer the party's name, telephone number and the information you have received to the supervisor or a member of the appropriate ELI unit.

2. During the course of processing a charge. If the charge is an individual harm charge, but unalleged/unrelated Title VII class basis/issues arise, contact the appropriate ELI unit and share the information you have discovered.

3. Recollection of past charges. You may recall situations in charges previously processed that warrant the attention of an ELI unit. Examples: A. No cause was found on charging party's issue (discharge, hire, promotion, etc.), but respondent's underutilization of the class needs to be explored further. B. Charging Party settled the individual harm allegation, but during the processing of the charge some information that class issues should be explored further may have come to your attention.

4. Receipt of information from community/media sources. During your non-EEOC activity time you may become aware of information about potential respondents or charging parties. Be alert and vigilant and report this information and the source to the appropriate ELI unit.

The limited scope commissioner charges are confined to Title VII allegations and cannot include public employers.

The units and their respondent alphabetical area of responsibility are:

A - F	G - N	O - Z
Rantin (4688)	Gaither (3575)	Townsend (6638)
Dargin (4781)	C. Mitchell (3537)	Webb (6333)
Post (4781)	Ricks (3746)	Lewis (6421)
R. Williams (4688)	Clayton (3536)	Riddle (6638)
Mayes (4688)	Perry (6638)	Brunson (6530)
Hicks (6638)	Auerhahn (6636)	Toomer (6638)
Reese (6421)	Morrow (3512)	Strouse (6421)
Benson (4591)	Peterson (3535)	Youmans (6421)
DeShields (4591)		

The participation of each employee as a resource person will greatly assist this new and exciting program and further the interest each of us has in the effective enforcement of Title VII.

Attachment

Atlanta District Office
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Citizens Trust Building, Suite 1150
75 Piedmont Avenue, N.E.
Atlanta, Georgia 30335

August 23, 1983

TO: George Frank Jordan,
District Director

THRU: G. Duke Beasley,
Deputy Director

FROM: Fred D. Brooks,
Compliance Manager

SUBJECT: Progress Report on Limited Scope Commissioner Charge Program

On August 2, 1983 a two hour orientation was conducted for all EOS's assigned to develop limited scope Commissioner charges.

The time frame chart was not relevant for the first group of charges because of the start up time necessary to understand the program, understand and master the resources available, including training on the computer, completion of assigned charges and the assignment of the limited scope units to intake, training and the hard inventory.

The first targeting task performed by the EOS assigned to the program was to review the 90 day files in Intake. Six months of files were reviewed. Few, if any, leads developed from this process.

Next, the specialists reviewed their past charge assignments. Some potential respondents resulted from this review. The specialists then went to the targeting books and to the computer for statistical data. The specialist also interviewed walkins and did a deligent search of active and closed case files.

To date 133 respondents have been reviewed as potential limited scope targets.

Following are individual EOS status reports.

Gaither's Unit

1. Mitchell - TDY to HQ.

2. Clayton - On extended sick and annual leave since August 1.

3. Ricks - One charge approved and awaiting typing. A second charge may be completed by August 31, however, EOS will be spending 3 days in Intake this week and three days on-site in South Carolina next week regarding two subpoena enforcement charges.

4. Peterson - Has completed research on two very good targets and will write up during the next week. A current employee of one target will be interviewed Friday, August 26.

5. Morrow - Research has been completed on one very good target and will be written this week. A second target looks like it will be "go" and may be completed by the 31st. A former charging party is being interviewed.

6. Auerhahn - First draft for one target has been completed and will be written in final form this week. Other potential targets are and have been researched, but nothing good has developed. EOS also completed 10 charges last week and expects to complete 7 more this week from CIC workload.

7. Perry - No potential targets have materialized from researching 5 respondents and review of the 90 day files. EOS has also received RFI response from respondents employer and union regarding 54 CIC charges. Preliminary analysis indicates no cause and if this holds up, and after coordination with ADEA Unit, we will concentrate on closing these charges.

Townsend's Unit

1. Webb - TDY to Headquarters

2. Toomer - 9 respondents targeted and background data being gathered. One scheduled for completion by September 9.

3. Riddle - 4 respondents targeted with background investigation underway. One scheduled for completion September 5. EOS has been on sick leave approximately 50% of time since converting to ELI.

4. Brunson - 1 respondent targeted with background investigation underway. One scheduled for completion September 5.

5. Frazier - 34 respondents targeted with background investigation underway. One scheduled for completion September 30.

6. Richards - Assigned to unit effective August 22, (yesterday).

7. Youmans - On sick leave since assignment to unit.

8. Lewis - On sick leave since assignment to unit.

9. Strouse - 1st day in unit 8/22 (yesterday).

Rantin's Unit

1. Reese - 5 respondents targeted, background data being developed. Two scheduled for completion by September 30, 1983.

2. Benson - 5 respondents targeted, background data being developed, two scheduled for completion by September 30, 1983.

3. DeShields - 5 respondents targeted, background data being developed, two scheduled for completion by September 30, 1983.

4. Post - In addition to an active ELi case load - 5 respondents targeted, background data being developed - two scheduled for completion by September 30, 1983.

5. Hicks - Involved with hard inventory since August 4, 1983 - has active ELi case load.

6. Williams - Involved with hard inventory since August 4, 1983 - has active ELi case load.

7. Mays - Has active Eli case load - scheduled for completion by August 31, 1983.

8. Dargan - Has large active ELi case load - scheduled for completion by September 16, 1983.

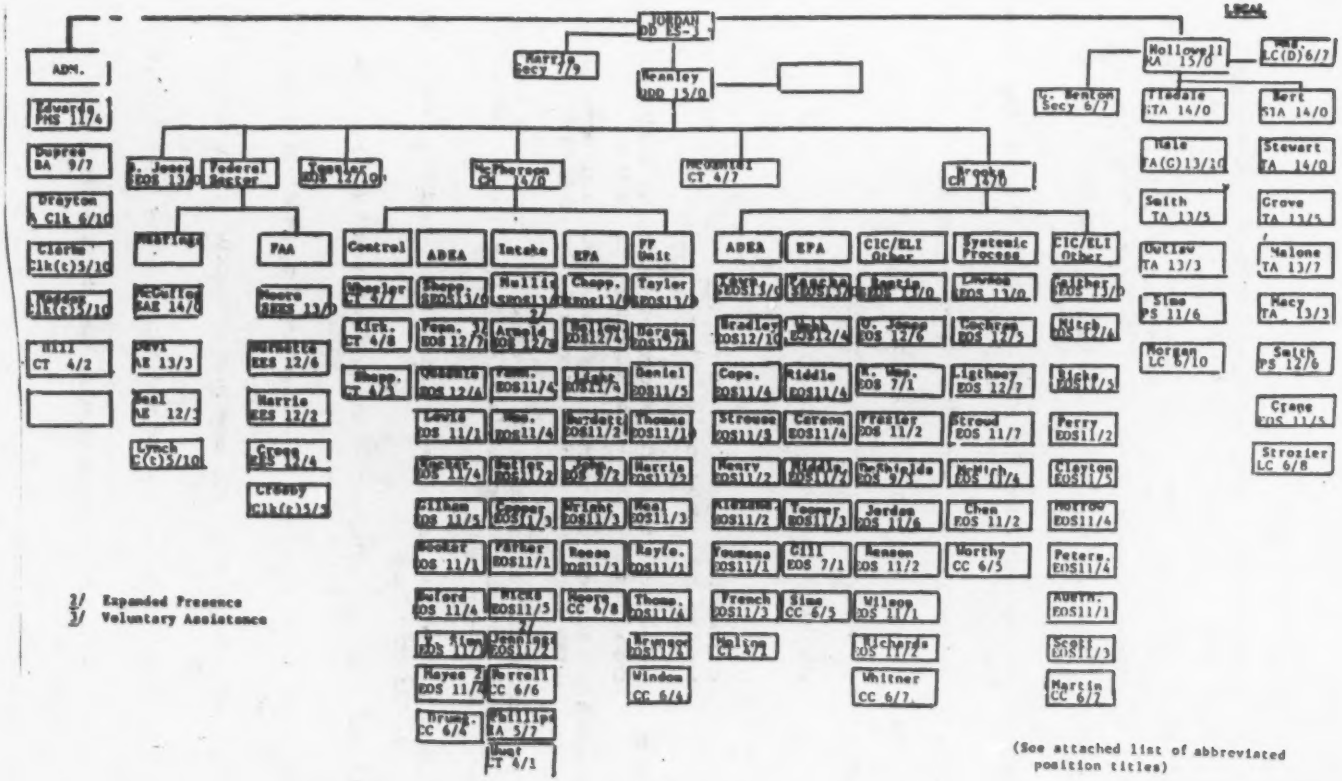
Attached for your information are forms developed by the Limited Scope Commissioner charge units:

1. Outline for Limited Scope Commissioner charge Presentation Memorandum.

2. Tracking Sheet.

3. Analysis Sheet.

If you have any questions concerning the above please contact me.



2/ Expanded Presence
3/ Voluntary Assistance

(See attached list of abbreviated position titles)

Atlanta District Office
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Citizens Trust Building, Suite 1150
75 Piedmont Avenue, N.E.
Atlanta, Georgia 30335

September 6, 1983

Ms. Barbara J. Jones
258-29-8229
Supervisory, Equal Opportunity Specialist
(Employment) GM-160-13
Atlanta District Office
U.S. Equal Employment Opportunity Commission
75 Piedmont Ave., N.E.
Atlanta, Georgia 30335

RE: Notice of Proposal to Reduce You in Grade

Dear Ms. Jones:

This is notice that to promote the efficiency of the service, I propose to reduce you in grade from your position of Supervisory, Equal Opportunity Specialist (Employment) GM-160-13 to that of Equal Opportunity Specialist (Employment) GS-160-11/10 in the Atlanta District Office, U.S. Equal Employment Opportunity Commission no earlier than thirty (30) calendar days from the date you receive this notice.

The reasons for this proposal are as follows:

1. Threatened legal action against an employee, due to statements made in a grievance.

   Specifically, on January 17, 1979, the Associate General Counsel issued a ruling in which it was concluded that your actions in this matter constituted "Reprisal" within the meaning of §(5)(a)(1) of EEOC Order 571 and 5 C.F.R. §771.105.

2. Your negative behavior as a Supervisor, e.g., harassment, intimidation, failure to provide guidance, etc., has resulted in disruption of the overall operation of the Atlanta District Office.

   Specifically, on May 11, 1979, the Director of the Office of Field Services rendered a decision in a grievance against you, removing ten (10) employees from under your supervision because of your behavior and supervisory techniques.

3. On January 15, 1980, William Rickman, Grievance Examiner, recommended the following remedy based on his findings in a grievance filed against you by ten (10) Grievants: (see item #2 above).

   ——— That you be immediately relieved of supervisory duties.

   ——— That you be reassigned within thirty (30) calendar days, to another EEOC Office outside Atlanta, Georgia.

   ——— That you be demoted to the position of EOS, GS-12.

4. Subsequent to Examiners Rickman's recommendations your negative supervisory behavior pattern continued as follows:

SPECIFICALLY:

On January 16, 1980, Ira Johnson, Equal Opportunity Specialist GS-160-7, was removed from under your supervision, at my direction (grievance-harassment, intimidation, etc.).

On January 17, 1980, Lorette Post, Equal Opportunity Specialist GS-160-7, was removed from under your supervision, at my direction (grievance - harassment, intimidation, etc.).

On May 14, 1980, Ethel Smith, Equal Opportunity Specialist GS-160-7 (Trainee), was removed from under your supervision, at the direction of the District Director (grievance - harassment, intimidation, etc.), failure to give supervision.

On June 23, 1980, Garvin T. Tonsler, Equal Opportunity Specialist, GS-160-12, requested a transfer from under your supervision (harassment, intimidation, etc.).

You were on extended leave from June 1980 until November 1980. During this period Mr. Tonsler was Acting Supervisor of the CIC/Other Unit. Upon your return to the office Mr. Tonsler again requested a transfer from under your supervision.

On January 22, 1981, it was mutually agreed that Mr. Tonsler would be transferred from under your supervision.

On March 23, 1981, Delloyd Wilson requested an immediate transfer from under your supervision (hostile attitude, lack of technical assistance, etc.).

On March 23, 1981, Willie Youmans, Jr., requested an immediate transfer from under your supervision (hostile attitude, unprofessional, lack of supervision, sexual harassment, etc.).

November 19, 1981, your entire staff requested a meeting to voice concerns and problems that they were experiencing under your supervision.

On November 23, 1981, I met with all EOS's in your unit and they made the same or similar allegations that everyone above made e.g. - lack of supervision and direction, hostile attitude, etc.

On November 27, and 30, 1981, and December 4, 1981 I met with you and your staff in an attempt to resolve these problems.

All concerns and problems were fully discussed and corrective action proposed. You accepted the proposed corrective action with a promise to work closely with your EOS's and to deal with situations before they become problems.

On December 7, 1981, Lynn E. Jordan, EOS GS-160-11 requested an immediate transfer from under your supervision alleging that nothing had changed.

The other EOS's in your unit had several discussions with the District Director concerning possible transfers and/or corrective action relating to your negative supervisory behavior.

On February 11, 1982, Ms. Jordan again requested a transfer from under your supervision, alleging the same things that gave rise to her first request for transfer.

These complaints from your staff continued up to your request for extended leave on April 22, 1982.

5. Since you have been under my supervision, every EOS, without exception, who has worked for you has made the same or similar allegations concerning your negative supervision and behavior pattern e.g. harassing, demeaning, abusive, lack of guidance, arbitrary, etc.

6. The vast majority of employees that worked for you requested, and were granted, transfers from under your supervision.

7. Your conduct as a supervisor has had a significant adverse effect on the morale and operational effectiveness of the Atlanta District Office.

   You have treated your subordinates in a manner which is intentionally harassing, demeaning, abusive, unprofessional, humiliating, intimidating, arbitrary and inconsistent and after numerous hours of counseling you I do not foresee any change in this pattern.

Based upon your history as a Supervisor, and because a GS-12 has supervisory responsibilities, i.e. acts as supervisor during the absence of the regular supervisor, I propose to reduce you in grade from your present supervisory position, to that of Equal Opportunity Specialist (Employment) GS-160-11 step 10.

You may answer this notice, both orally and in writing to:

George Frank Jordan, District Director
Atlanta District Office
U.S. Equal Employment Opportunity Commission
75 Piedmont Ave., N.E.
Atlanta, Georgia 30335
Telephone: 404-221-6091

You may furnish affidavits and other documentary evidence in support of your reply. You may have a representative of your choosing, if you desire. You may review the material relied on to support these reasons by contacting:

Thomas Edwards, Acting Chief, OSU-PMS
Atlanta District Office
Equal Employment Opportunity Commission
75 Piedmont Ave., N.E.
11th Floor - Room #107
Atlanta, Georgia 30335
Telephone (404) - 211-4689

If you do not understand the reason why your reduction in grade is proposed, contact me for further explaration. Any reply you make will be fully considered, before a final decision is made. You will be given ten (10) calendar days from receipt of this notice to make any relpy.

Consideration will be given to extending the ten (10) day period if you submit a request in writing to the deciding official, George Frank Jordan, at the above address, stating your reasons for desiring more time.

You will be allowed sixteen (16) hours of official time to review the material relied upon to support these reasons, to secure affidavits, and to prepare an answer to this proposed notice. You should make arrangements with me for the use of this time.

As soon as possible, after your reply is received, or after expiration of the ten (10) day limit if you choose not to answer, a written decision will be issued to you. You will remain in an active duty status, during this period.

_____
FRED D. BROOKS, JR.,
Compliance Manager

CC: Chief, Labor Management Relations Branch

Acknowledgement of Receipt _____
Signature

_____
Date

Memorandum (Exhibit 4)

Citizens Trust Building, Tenth Floor
75 Piedmont Avenue, N. E.
Atlanta, Georgia 30303

TO : G. Duke Beasley,
Deputy Director

DATE: October 25, 1983

In reply refer to:

FROM : Fred D. Brooks,
Compliance Manager

SUBJECT: Exception to Performance Appraisal

As per EEOC Order 550, I hereby disagree with my performance appraisal as changed by the reviewing official, George Frank Jordan, District Director.

On Tuesday, October 25, 1983, I was informed by Mr. Jordan that he had changed my performance appraisal from a Level 5 - Outstanding Performance, as rated by you my appraising official, to that of a Level 2 - Marginal.

There were no prior discussions as to this matter, neither was there documentation to support Mr. Jordans decision. It appears to be an arbitrary and capricious act at best.

You and I discussed each performance element and each performance standard prior to you appraising me. In addition, documentation was furnished, not only for my appraisal, but for each of my supervisors. This documentation was accepted by you and so noted by the appraisal that you gave me Level 5 - Outstanding.

When I questioned Mr. Jordan as to why he gave me a "Failed to Meet" under Standard 1e. he stated that I did not have adequate support and documentation for this standard.

This statement is totally misleading and not true. I have provided on-going OJT and have caused training and cross-training to be provided to all units in the District Office, Area Office and 706 Agency Staff. (please see attached).

The quality of training is attested to by the fact that I exceeded all (production) performance standards.

Note: These standards are all objective not subjective.

It appears that Mr. Jordan either reduced or rendered N/A each level of attainment point for each standard that you scored. (see attached).

I believe that this situation is subterfuge because you stated to me that Mr. Jordan was going to give me a Level I but you talked him into giving me a level II. He has violated the procedure rules of EEOC Order 550.

Note
He only gave me a 3.5 for those standards that I exceeded and the directives state that they are worth 4 points.

Mr. Jordan's unfair appraisal of me has had a profound negative impact upon my career and the well being of my family.

I therefore respectively request the restoration of my appraisal to that of a Level 5.

I would like to also add that the district office training officer works under my direct supervision.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

OCT 26 1983

MEMORANDUM

TO : OFFICE HEADS
DISTRICT DIRECTORS

FROM : John Seal
Management Director

SUBJECT : Installation of an Agency Data Base Management System (RAMIS)

A primary objective of the Office of Management during the past fiscal year has been a shift towards providing improved ADP capabilities to user organizations within the Commission. Computer Systems Management Division (CSMD) was directed to shift away from the one-way configuration of reporting and data entry as well as limited on-line inputs and the limited time schedule available to users for updating the current charge data system.

In an effort to improve ADP service delivery capabilities, we have proceeded with the acquisition of the RAMIS II Data Base Management System (DBMS) to begin our initiatives to make all ADP systems more user friendly and accessible to a wider range of potential system users. RAMIS II, used as a query system, will not require computer programming skills to make the system accessible to the average user. The query of data will be through English language statements making training and use of the system easier for the users. When RAMIS II is used for updating the data base, data entries will be faster with real-time retrieval available. Through RAMIS II, a two-way system of communications will be developed for all organizational entities having authorized access to the system.

The benefits of using the RAMIS II DBMS are the flexibility each using office will have in accessing the current data in each system; utilization of the system to locally measure, manage and track their activities through workload analysis; expansion of the time the system will be available for use (in the beginning from 12 to 16 hours and hopefully 24 hours around the clock) and the eventual capability to provide graphic display of this information.

Initially, the RAMIS II Data Base Management System will be available in the query mode and give authorized users full access to the current active Charge Data Base. Charge history data (inactive) and other non-charge data will be available at a later time and you will be informed. Subsequently, new CSRS data capture procedures will be issued to allow each office to develop their own customized charge data elements (i.e. any element necessary for your own discretionary use), making it possible to define local office functions.

For your information, the attached workplan is the current schedule for bringing the RAMIS II DBMS on-line for testing and utilization. We ask that you give particular attention to those activities requiring action by your organization as a user.

Mr. James L. Hall is the Project Manager for bringing the initial system into operation.

CSMD plans to develop and present a detailed orientation to begin to acquaint the district offices with the capabilities that will be open to them under the RAMIS II DBMS.

WORK PLAN FOR IMPLEMENTATING RAMIS II DATA BASE MANAGEMENT SYSTEM

DESCRIPTION OF ACTIVITY	TARGET DATES START	FINISH	INVOLVED ORGANIZATION
CSMD Training (RAMIS II, TSO)	Oct. '83	Nov. '83	CSMD, OPS
Analyze charge data for design DB developing RAMIS structured data base files.	Oct. '83	Nov. '83	CSMD, OPO
Develop computer programs to correct charge data anomolies for loading into RAMIS structured data base files.	Nov. '83	Dec. '83	CSMD, OPO
Load charge data into RAMIS structured data base files and test functional response.	Nov. '83	Dec. '83	CSMD
Provide RAMIS training for selected district offices.	Jan. '84	Feb. '84	CSMD, OPS, OPO
Develop new data capture procedures and customized data elements by selected district offices.	Mar. '84	Mar. '84	CSMD, OPO, OPS
Installation of Displaywriters and and telephones/modems.	Nov. '83	Jan. '84	CSMD, FMS
Generate customized elements into selected district charge data files under RAMIS.	Mar. '84	Mar. '84	CSMD, OPO
Develop local district office reports from customized charge data files under RAMIS.	Mar. '84	Apr. '84	CSMD, OPO
Final system testing and utilization	Apr. '84	Apr. '84	CSMD, OPS, OPO
Conduct review of all CSRS report contents	Nov. '83	Jan. '84	CSMD, OPO
Bottom Line Indicators Development and Implementation	Jan. '84	Mar. '84	CSMD, OPO
Convert existing reports to RAMIS II	Jan. '84	June '84	CSMD, OPO
Operating Statistics development and implementation	Apr. '84	June '84	CSMD, OPO

Atlanta District Office
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Citizens Trust Building, Suite 1150
75 Piedmont Avenue, N.E.
Atlanta, Georgia 30335

Jab - 2

October 27, 1983

TO: Whom it may Concern

FROM: Undersigned Supervisors

SUBJECT: Lack of Professional Confidence in the District Director

Each of the undersigned is a supervisory EOS in the Atlanta District Office. Our Equal Employment Opportunity Commission/Atlanta District Office supervisory service ranges from 13 to 3 years. Each of us has served under the direct supervision of one or both of the two Compliance Managers, Mr. Fred D. Brooks and Mr. Thomas McPherson, Jr., from 2 to 4 years. Each of us was a Supervisory EOS when the Director came to the Atlanta District Office in June, 1983 and each of us continues to serve as a Supervisor as of this date.

We express our professional confidence in the supervision and guidance of the two Compliance Managers.

We feel compelled to express our lack of professional confidence in the present District Director, Mr. George Frank Jordan, as a manager, for reasons including but not limited to the following:

1. Assignment of duties and personnel

   a. Supervisors and EOSs assigned to their supervision have been and are still being wantonly reassigned to new duties and functions without consultation or reasons other than that such are the decisions of the Director, which are not to be questioned. This has resulted in an unprecedented reduction in office morale, individual and collective.

   b. Without consultation or discussion with the management or supervisory staff, the Director imposed unrealistic production goals, per EOS, by simply announcing to the managers and supervisors that he expected the goals to be achieved and by making it known that he would look upon any discussion or complaint as a lack of loyalty. The goals were to be presented to the EOSs as coming not from the Director but from "Management". When the AFGE bargaining unit in a called meeting questioned him about the assignments above and the production goals, he denied having caused these actions to be taken, pointing out that there was no documentary evidence that he had initiated or authorized the actions. Indeed, he attributed the imposition of the production goals to action initiated by the supervisors. However, he took no action to reverse or countermand the actions questioned by the union.

2. Abolition of GPADS and Merit Pay Standards for Performance Appraisals

   a. Appraisals for FY '83 were required to be made in accordance with capricious standards which are in conflict with published Commissi appraisal procedures. For example, Supervisors were required to submit appraisals for persons who had not been under their supervision for the last 90 days of the appraisal period and were directed to use arbitrary standards which in some instances counte acted adverse effects of the aforementioned assignments (see 1 above) and in other instances penalized individuals by not giving them credit for actual work performed. Performance requirements were modified during the last week of the fiscal year in order to accommodate new and/or irregular job assignments for which there were no GPADS or Merit Pay Performance Standards prepared and/or approved.

   b. Each Supervisor was required to discuss in detail his or her intended appraisal of each EOS with the Director, the Deputy Directo and the Compliance Manager. In some instances the Director direct ed that certain ratings be given to certain individuals. With respect to the office environment performance standard, he had mad his own individual appraisals without consultation with the Supervisors and in some instances read off to the Supervisor at the beginning of the review conference what he expected that appraisal to be.

3. Time/Production Requirements

a. Managers and Supervisors were pressured into accepting obviously unreasonable production goals for the last quarter of FY '83 under the guise of helping a new Director show Headquarters that the Atlanta District Office and its personnel should and could be at the top of the list rather than among those at the bottom. When the professional staff, and clerical staff, rallied and tried to meet these goals, they were not commended but severely criticized, transferred and reassigned without known or announced reasons. Even though the Director rated the Compliance Managers as "Exceed" in the critical production area, he is downgrading them on the basis of subjective noncritical job elements. The Director ordered the Compliance Managers to rate Supervisors in the same manner.

(The Atlanta District Office worked all last year at a disadvantage well known to the Director. The previous Director was ill for more than a year and died in office in April, 1983).

b. These unreasonable work requirements and Director's special assignments disrupted the normal flow of work and caused the office to start the new fiscal year with a case inventory almost completely in the first stages of charge processing, thereby destroying any opportunity to meet reasonable time frames of production. The time frames are such that competent investigations and good case management are compromised.

4. Office Appearance

a. Strict compliance with certain standards for "office appearance" are mandatory. Nothing is permitted on unit or individuals office bulletin boards. No wall calendars, not even the 1983 U.S. Government calendar, is permitted. No newspaper except the Wall Street Journal is permitted in the office. No unframed pictures or posters are permitted.

b. However, some offices that met these standards were still found unsatisfactory by the Director according to other subjective and unannounced standards.

5. Reorganization

a. Without prior notice or consultation with the Compliance Managers or Supervisors, at 4:30 p.m. on October 6, the Director caused an entire reorganization of the office, by function, unit, physical location, effective immediately. There had been reports of probable reorganization for a month or more but no announcements had been made until that day. At that time each Supervisor was handed a list of names, showing only his/her unit assignment and the name of EOSs assigned to his/her unit. He/she was also handed a floor plan of the space to be occupied by that unit and was told to make room assignments by seniority, grade, etc.

b. As of this date, the telephone service continues to reflect the old organization and work assignments, with resulting confusion and difficulty for personnel to communicate with each other or the public.

c. We have not been provided with new organizational chart, only the telephone listing for the office which incorrectly reflects the reorganization. In several instances an individual is shown as assigned to a particular unit who are infact on special assignment for the Director, physically located away from the unit and not reporting to that Supervisor. For example, Intake shows 8 EOSs on the listing. However, two of those have special assignments from the Director and do not report to the Intake Supervisor, and a third has a special assignment given to him by someone other than the Intake Supervisor. Actually there are only 5 EOSs assigned to Intake to take charges. Another example is that two EOSs listed in one of the ADEA units are physically located elsewhere and do not report to that Supervisor.

d. The telephone listing shows one Fact Finding unit and two CIC/ELI units when infact charges taken by Intake are assigned to all 3 units on the same basis of geographical location or name of Respondent. Extended investigation of complex charges is not provided for under the new organization. Fact Finding conferences are forbidden and Fact Finding conference rooms have been eliminated.

6. Unassigned Personnel

One of the persons listed in the telephone listing under "Management" is an individual who has returned from a year's leave of absence without pay, following various grievances filed against her for unsatisfactory performance as a supervisor. In the course of the investigation of these grievances, many present office personnel gave testimony as to her inability to supervise and their unwillingness ever to serve under her supervision again. No announcement has been made as to her assignment. We know of one assignment, to audit the inhouse training just completed. There is growing anxiety that she is to be placed in a position to "audit" the work of those who have testified against her.

7. Communication

Communication from the Director to the staff is restricted largely to orders and negative comments. There is little if any opportunity for communication from the staff to the Director. This has created and continues to create an environment which is incompatible with professional integrity, mutual respect and cooperation and which can be described only as management by intimidation. We see nothing to indicate that this situation will change.

Rosemary Chappell

Willie Gaither

Edward Lawson

Ivan Mullins

Eliza Paschall

William Rantin

Rheubin Taylor

William Townsend

UNITED STATES GOVERNMENT

Memorandum

Atlanta District Office
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Citizens Trust Building, Tenth Floor
75 Piedmont Avenue, N. E.
Atlanta, Georgia 30303

TO : The Atlanta District Office Staff

DATE: October 27, 1983

In reply refer to:

FROM : George Frank Jordan
District Director GFJ

SUBJECT: Maternity Leave

Effective this date, leave for maternity purposes for employees in this office will be limited to twelve calendar weeks of any combination of sick, annual or leave without pay; advanced or accrued. Longer periods will be considered if, at the end of the initial twelve week period, the employee submits acceptable medical evidence showing that a longer period is medically indicated.

Prior to approving or recommending approval of any category of leave, supervisors should first familiarize themselves with the provisions of EEOC Order 561, dated April 15, 1983. Particular attention should be given to paragraph 3, Appendix B of the aforementioned Order.

BUY U.S. SAVINGS BONDS REGULARLY ON THE PAYROLL SAVINGS PLAN

UNITED STATES GOVERNMENT

Memorandum

Atlanta District Office
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Citizens Trust Building, Tenth Floor
75 Piedmont Avenue, N. E.
Atlanta, Georgia 30303

TO : All Supervisors and Managers

G. Duke Beasley

DATE: Oct. 28, 1983

In reply refer to:

FROM : G. Duke Beasley
Deputy District Director

Jab 12

SUBJECT: Schedule of Staff Meeting

This is to announce the schedule of management, supervisory and full staff meetings for FY-1984.

1. Top Management Committee will meet the first and third Fridays of each month, 9:30 AM, Room 102 (11th Floor), effective November 4, 1983.

2. Compliance Managers, Regional Attorney and supervisors under their supervision will meet as follows:

   McPherson -- Second Tuesday of each month, 9:00 AM, Room 102 (11th Floor), effective November 8, 1983.

   Brooks -- Second Wednesday of each month, 9:00 AM, Room 102 (11th Floor) effective November 9, 1983.

   Hollowell -- Second Thursday of each month, 9:00 AM, Room 102 (11th Floor), effective November 10, 1983.

3. Other Management Staff (McGuffog, Moore, B. Jones, Tonsler, Arnold, Pennington, Ricks, Mayes and Jennings) will meet the third Monday of each month, 9:00 AM, Room 102 (11th Floor), effective November 21, 1983.

4. The full staff (all employees) will continue to meet the first Monday of each month at 8:45 AM in the 11th Floor Staff Training and Development room. Where the first Monday is a holiday, the session will take place on the second Monday in that month. All employees except those designated to cover telephones are required to attend.

BUY U.S. SAVINGS BONDS REGULARLY ON THE PAYROLL SAVINGS PLAN

Atlanta District Office
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Citizens Trust Building, Suite 1150
75 Piedmont Avenue, N.E.
Atlanta, Georgia 30335

Jab-1

October 31, 1083

TO: Clarence Thomas,
Chairman - EEOC

THRU: James H. Troy, Director
Region I

FROM: Atlanta District Office Employees

SUBJECT: Lack of Confidence in OUR District Director

We the staff of the Atlanta District Office of the Equal Employment Opportunity Commission on October 31, 1983, hereby advise the Chairman, Clarence Thomas, that by affixing our signatures hereto state that we have no confidence in the leadership of George Frank Jordan, Director of the Atlanta District Office.

We are not at liberty to discuss our grievances with the Director because of his inaccessibility and our fear of intimidation, retaliation and possible threats of discharge. Since his arrival in Atlanta he has committed acts of misfeasance including but not limited to:

1. Ordering individual EOSs to close individual charges without proper (and in some cases, without any) investigation which would achieve the number of files closed within a certain time frame to qualify him for a pay bonus of up to $6000.00.

2. Making unreasonable processing demands upon the staff members; requiring the processing of twenty (20) charges per month or one (1) charge per day. Establishing time frames (i.e. days) a charge should not exceed for each stage of the investigation.

3. Harassing employees; example: Standing in the lobby observing the arrival time of employees for work.

   Interrupting employees performance by entering their offices without knocking and once in not speaking or saying anything.

4. Demanding that employees appraisals be changed to satisfy his whims and caprice.

5. Transferring employees from units and functions at his whim and caprice.

6. Improperly upgrading certain positions/function based on personality;

   Transferring employee to a position and upgrading the position immediately after the transfer.

7. Requesting the closing of files when additional information was needed and relevant, resulting in a general dis-service to the public.

8. Refusing to allow employees with valid reasons to perform their duties on flexible time schedules.

9. Refusing to hold staff meetings or conferences with employees regarding matters of importance to the staff.

10. Harassing employees for taking approved leave of absences prior to the effective date of the GPAD.

11. Reducing the number of Intake Officer's when there was a need for additional staff with resulting adverse effects on the entire staff.

12. Summarily, abolishing existing units and establishing new units; reassigning personnel (Supervisor, EOS and Clerks) without notice or orientation, assigning tasks for which there were no established performance standards, all during the last quarter, including the last month, of the fiscal year.

13. Violating the spirit and the letter of the GPADS (work appraisal) by assigning individuals to new functions and requiring that they be rated according to performance standards of the functions to which they had been assigned, with no reference to work actually performed.

14. Covering up such violations by giving oral instructions only, with no written confirmations.

15. Failing to communicate with and/or support his own management staff, thereby adversely affecting our working conditions and environment.

16. Creating an atmosphere of insecurity and low morale.

We take this opportunity to express our confidence in the integrity and professional competence and performance of the Compliance Managers Fred D. Brooks and Thomas McPherson, Jr., and to note that only through their dedication to dut was this office able to function during the last year when the then Director, Betty Adams was suffering a terminal illness. We are outraged by the lack of respect for their professional standing and by the agency's apparent lack of appreciation for their performance.

SIGNATURES

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** Not allowing employee to work in Job Title. Not furnishing equipment and furnishings for performing duties.

CC: Commissioner W. Webb, Commissioner R. Rodriguez, Commissioner T. Gallegos

Jat 7

Atlanta District Office
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Citizens Trust Building, Suite 1150
75 Piedmont Avenue, N.E.
Atlanta, Georgia 30335

November 3, 1983

TO: George Frank Jordan,
District Director

THRU: G. Duke Beasley,
Deputy Director

FROM: T. McPherson, Jr./Fred D. Brooks,
Compliance Managers

RE: On-Site Investigations on All Cases

This is to confirm the instructions Mr. Jordan gave Mr. McPherson November 1, 1983, in Mr. Beasley's office and in the presence of Mr. Beasley: (1) that all charges are to have on-site investigations, (2) that Fred Brooks and McPherson are to develop procedures for on-site investigations for the Monday (Nov. 7) training session, (3) that Mr. Jordan returned four cases (2 requests for withdrawals, 1 proposed settlement and one no cause determination) with instructions that McPherson cause an on-site to be conducted on each case; and, that we are receiving conflicting instructions on preparing procedures for conducting on-site investigations.

On November 1, in an attempt to get a clear understanding of what Mr. Jordan wanted, McPherson asked if we (Jordan, Beasley and McPherson) could discuss his (Jordan's) concept of all charges must have an on-site investigation, particularly proposed settlements and requests for withdrawals. He stated that on-site investigations are to be conducted on all charges as of October 1, 1983. Referring to proposed settlements, McPherson asked, why would an on-site be required? Mr. Jordan said, to determine if the "mission" of the agency is being "accomplished". There might be non-alleged violations which should be discussed with the Respondent and if the Respondent is unwilling to resolve them, a Limited Scope Commissioner Charge should be recommended. Mr. Jordan continued, "we do not want to encourage settlements".

As to requests for withdrawals, McPherson said, if we receive such through the mail, and have no reason to believe or have an indication that the Charging Party was coerced, threatened or otherwise intimidated, can we accept them without an onsite? Mr. Jordan said, "no". All case actions (recommendations) must flow from on-sites. "Go on-site first... do plant tours... look for the posters... I am not happy with individual harm charges... we must do that which is in furtherance of the accomplishment of the mission".

EOSs and Supervisors need to understand that they must go out in the field and stay overnight and investigate two or three companies at a time. Mr. Jordan continued his explanation by saying that we will no longer be "spoon fed" information, we must go to the Respondents and "put our hands on the doucments". He confirmed that we are to investigate charges the way we did

in the "60s and early 70s". "We have the money to travel and from all indications, we will continue to have it".

McPherson explained that if this is what Mr. Jordan wants, it is necessary to spell out the procedures in detail so that the staff will have a clear understanding of what is expected. It was recommended that Mr. Brooks and McPherson develop the procedures, submit them to Mr. Jordan through Mr. Beasley for review and approval. The procedures are to be presented to the staff at next Monday's staff meeting.

After McPherson's conference November 1, with Mr. Jordan and Mr. Beasley, Mr. Beasley informed Mr. Brooks to hold all cases from his units unless on-sites had been conducted on them. Mr. Brooks informed Mr. Beasley that he had several withdrawals and settlements. Mr. Beasley stated that an on-site had to be conducted on each, per instructions from Mr. Jordan. Presently, Mr. Brooks is holding several settlements, including one for $12,500 and one for $28,000 and 12 failures to conciliate and withdrawals.

This morning, November 3, Mr. Beasley informed Mr. Brooks that he (Beasley), on his own volition, was changing the requirement for an on-site on all cases; that Mr. Brooks and McPherson are to develop procedures excluding on-site investigations on settlements, withdrawals and right-to-sue requests.

Please clarify what the policy will be/is, i.e., on-sites on all charges or compliance with Section 25 of the Compliance Manual. This clarification is needed so that we may prepare procedures consistent with the policy of ATDO top management. This clarification is needed immediately so that we may prepare the correct procedures for Monday's meeting.

Atlanta District Office
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Citizens Trust Building, Suite 1150
75 Piedmont Avenue, N.E.
Atlanta, Georgia 30335

TO:

THRU:

FROM:

SUBJECT: Guidelines for No On-Site Investigations: Charge # _____

Charges falling within one (1) or more of the following categories will not be subject to on-site investigations.

--- Settlement prior to On-Site ☐

--- Withdrawals prior to On-Site ☐

--- RTS Request prior to On-Site ☐

--- Failure to Cooperate prior to On-Site ☐

--- No-Jurisdiction prior to On-Site ☐

--- Relevant Evidence received prior to On-Site ☐

--- Other (Specify) ☐

_____

_____

_____

--- Limited Scope Commissioner Charge recommended ☐

UNITED STATES GOVERNMENT EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Memorandum

Atlanta District Office
Citizens Trust Building,
75 Piedmont Avenue, N. E.
Atlanta, Georgia 30303

TO : ATDO Staff

DATE: November 4, 1983

In reply refer to:

FROM : Fred D. Brooks/Thomas McPherson,
Compliance Managers

SUBJECT: On-Site Investigation Training

There will be On-Site Investigation Training conducted at 8:45 a.m. Monday - November 7, 1983 in the 11th floor traning conference room.

Please review the following manual sections prior to the training:

— Section 25 of Title VII Manual

— Section 125 of EPA Manual

— Section 225 of ADEA Manual

BUY U.S. SAVINGS BONDS REGULARLY ON THE PAYROLL SAVINGS PLAN

Jat 8

Atlanta District Office
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Citizens Trust Building, Suite 1150
75 Piedmont Avenue, N.E.
Atlanta, Georgia 30335

November 8, 1983

TO: George Frank Jordan,
District Director

FROM Fred D. Brooks, FDB
Compliance Manager

SUBJECT: GRIEVANCE REGARDING MERIT PAY PERFORMANCE APPRAISAL AND MANAGERIAL ABUSES.

As per EEOC Order 571, I hereby file a grievance regarding my Merit Pay Performance Appraisal and Managerial Abuses on the part of George Frank Jordan, District Director, ATDO.

On Tuesday, October 25, 1983, I was informed by, George Frank Jordan, District Director, that he had changed my Performance Appraisal from a Level 5 - Outstanding Performance to that of a Level 2 - Marginal Performance.

There were no prior discussions as to this matter, neither was there documentation to support Mr. Jordan's decision.

My Appraising Official, G. Duke Beasley, Deputy Director, had appraised me and discussed each performance element and standard. In addition, documentation was furnished, not only for me, but for each supervisor under my supervision.

This documentation was acceptable to Mr. Beasley as indicated by his appraisal of me.

When the Reviewing Official, George Frank Jordan, District Director, received the appraisal, he either reduced or rendered N/A each level of attainment point for each performance standard scored by the Appraisal Official.

In addition, Mr. Jordan only gave me a 3.5 for those standards that I exceeded, when EEOC Order 550 states that an "Exceed level of performance" is worth 4 points.

I asked Mr. Beasley why had Mr. Jordan changed my appraisal from a Level 5 to a Level 2? Mr. Beasley stated that he did not know. He continued by stating that initially Mr. Jordan was going to give me and Thomas McPherson, Compliance Manager a Level 1 - Ineffective, but he talked him into giving us a Level 2.

Mr. McPherson and I took exception to our appraisal and on November 1, 1983 we met with Jordan and Beasley to discuss our exception.

Mr. Jordan walked into the meeting and announced that he was changing our rating from a Level 2 to a Level 3. He stated that, although he was still considering his appraisal of me and Mr. McPherson, he felt that we had the interest of the office at heart even though we had not been totally supportive of him.

We asked him why did he feel that we had not supported him, and to identify those areas of non-support. He declined to answer.

At this point I asked Mr. Beasley if he felt that Mr. McPherson and I had not been supportive of Mr. Jordan? Mr. Beasley stated "Well you know Fred, people talk a lot around here and the "Man" may have heard somethings that you and McPherson may have said".

I asked him if he was saying that our appraisals were based upon allegations made by an employee to Mr. Jordan? Mr. Beasley turned and looked at Mr. Jordan. At this point, Mr. Jordan stood up and told us that the appraisals would be changed and we would receive copies. The meeting ended without further discussion.

MERIT PAY PERFORMANCE APPRAISAL

In early October, 1983, Mr. McPherson and I met with Mr. Jordan and Mr. Beasley to review proposed appraisals for our supervisors and each employee in there respective units. Documentation was furnished for each proposed appraisal. During these meetings Mr. Jordan attempted to impose his own evaluation of each employee by using his own subjective standards, as yet unexplained, thereby usurping the authority of the appraising and reviewing official in the case of the EOS's and clericals, and atterpting to undermine the authority of the appraising official in the case of the supervisors.

During the week of October 10, 1983 Mr. McPherson and I were appraised at a Level 5 - Outstanding by the Deputy Director. (see exhibit 1).

Doucmentation was furnished and accepted, by the Deputy, to support the appraisal.

Mr. Jordan sent word that certain standards were to be made not applicable and a new summary sheet, with the N/A changes, was to be submitted. (see exhibit 2).

On October 25, 1983, I was informed by Mr. Jordan that he had changed my appraisal from a Level 5 - Outstanding to that of a Level 3 - Marginal. I was presented with a third summary sheet. (see exhibit 3).

Mr. Jordan had rendered additional standards N/A, gave me a "failed to meet" on standard 1e and only 3.5 points for those standards that I exceeded.

NOTE:

The standards that I exceeded were under Element #2 - Program Performance. These are objective standards where subjective criteria cannot be used. It should also be noted that an Exceed calls for 4 points, However, Mr. Jordan only gave me and Mr. McPherson 3.5 points for those standards and reduced all other exceeds from 4 points to 3 points.

There were no prior disucssions as to the above, neither was there justification to support Mr. Jordan's decision.

When Mr. McPherson and I discussed Mr. Jordan's appraisal with our appraising official, Mr. Beasley, he stated that Mr. Jordan was going to give us a Level 1, but that he, Beasley, talked him into giving us a Level 2.

On October 25, 1983, as per EEOC Order 550, I took exception to my appraisal and submitted documentation to support my position. (see exhibit 4).

On the afternoon of October 28, 1983 Mr. Beasley told me and Mr. McPherson that Mr. Troy had telephoned Mr. Jordan "raising hell" about our appraisals.

Mr. Beasley stated that Mr. Troy told Mr. Jordan that he was to remove all N/A's and to let Beasley rate us during the period 1/1/83 - 5/3/83 on those standards.

Mr. Beasley also stated that Mr. Troy told Mr. Jordan that he better have documentation for the "failed to meet" under standard 1e or change it.

Mr. Beasley continued by stating that Mr. McPherson and I should do a new summary sheet for the period 1/1/83 - 5/3/83, removing all N/As and substituting the original appraisal that he, Beasley, had done. (see exhibit 5).

We submitted the new summary sheet with supporting documentation.

NOTE:

The documentation has not been returned. After the November 1, 1983 meeting with Mr. Jordan and Mr. Beesley, (previously discussed in the body of this grievance), Mr. Jordan presented us with a new appraisal. He had changed the "failed to meet" to a Met with Modification (no explanation) and changed the 3.5 points, where we had exceeded Element 2 - Program Performance, to 4 points, and once again, without discussion or justification, reduced all other standards from an "Exceed" to "Met" (3 points). (see exhibit 6).

It is apparent that Mr. Jordan violated EEOC Order 550 by usurping the authority and responsibilities of the Supervisors, Compliance Managers and the Deputy Director as Appraising and Reviewing Officials, and substituting subjective bias criteria for the procedural rules of EEOC Order 550 by appraising me based upon allegations of non-support by some un-named staff member/members. (As per Mr. Beasley's response to a question at an earlier meeting: "the man may have heard some things that you and McPherson may have said").

MANAGERIAL ABUSES:

I believe that the following constitute abuses of power by George Frank Jordan, District Director, ATDO:

-- 1. Arbitrarily imposing production requirements for the completion of 5 cases per week or 20 cases per month per EOS; an almost total intolerance for any discussion of, or comment on, the matter; and denying that he had imposed any such requirements after challenge by the union.

-- 2. The elimination of Fact Finding Conferences.

-- 3. The issurance of a discriminatory Maternity Leave Policy (see exhibit 7).

NOTE:

Policy recinded after protest from staff members.

-- 4. Ordering on-site investigations on all charges including settlement and withdrawals. On November 1, 1983, in the presence of Thomas McPherson, I was ordered by the Deputy Director, acting on orders from Mr. Jordan, to have on-site investigations conducted on settlements and withdrawals if no on-site had been conducted prior to the settlement or withdrawal.

I was also told to tell the supervisors that any case completed since October 1, 1983 had to have an on-site. I informed Mr. Beasley that I had several settlements and withdrawals with settlements worth thousands of dollars that were ready for the Director's signature. Mr. Beasley instructed me to hold the cases for on-sites. I informed Mr. Beasley that Mr. Jordan's order was in violation of Commissions procedural rules and regulations because it is Commission's policy to encourage settlements and demanding an on-site after a case has been settled to the satisfaction of all parties, could be considered harassment by the Respondent Community, thus making settlement difficult. Mr. Beasley's response was that Mr. Jordan wanted Mr. McPherson and me to develop procedures for on-site investigations and to present them to the staff at a meeting on Monday, November 7, 1983.

On November 3, 1983, Mr. Jordan's "on-site" policy was modified to exclude, after approval by the District Director, certain cases. This change was participated by telephone calls to Mr. Beasley from a Charging Party and a Respondents Attorney inquiring about a settlement and release. The release of the settlement check was pending the Commissions approval of the settlement and Charging Party release.

Mr. McPherson and I, along with Ed Lawson, District Training Officer and Donald Hollowell, Regional Attorney, were instructed to develop guidelines to be used in determining when a charge May not require an on-site investigation and present them to the staff at the November 7, meeting. (see exhibit 8 and 9).

The guidelines were developed (see exhibit 10) and on November 7, 1983. I conducted a training session on "On-site investigations."

— 5. Mr. Jordan's conduct as a Director has had a significant adverse effect on the morale and operational effectiveness of the Atlanta District Office. He has treated his subordinates in a manner which is intentionally harassing, demeaning, abusive, unprofessional, humiliating, intimidating, arbitrary and inconsistent. In addition, he has violated Commission's rules and regulations, through imposition of discriminatory policies and practices and the substitution of Commissions procedures for his own.

Mr. Jordan's treatment of staff is directly related to either his bias concept of loyalty, or friendship with him or the Deputy Director. (see exhibit 12).

--- On one occasion in September, 1983, I and the three (3) CIC/ELI (Limited Scope Commissioner Charge) Supervisors, e.g., William Rantin, Willie Gaither and William Townsend were called to a meeting in the Directors Office. Present at this meeting, in addition to the above named employees, were Mr. Beasley, Mr. Jordan, Norma Arnold GS-12 EOS, on special assignment to the Director, and Maurice Pennington, GS-12 EOS also on special assignment to the Director. When the three supervisors and I arrived at the meeting Mr. Pennington began to castigate us for our "failure to do a Limited Scope Commissioner charge against Road Way Express". I objected to Mr. Penningtons tone and asked the Director if he called us up to be "raked over the coals" by Mr. Pennington on a subject, Limited Scope Commissioners Charge, that he obviously know very little about. Mr. Pennington continued in a loud and abusive manner, demanding an explanation of the Limited Scope Commissioners Charge Program. I again objected to Mr. Pennington's behavior and told him that "I was not going to sit here and be verbally abused by him. Mr. Jordan ordered me to sit down. He then stated that he would make a decision on this matter and ended the meeting.

The next day, I requested a meeting with Mr. Beasley and Mr. Jordan to express my displeasure at me and my supervisors being subjected to this kind of treatment. Mr. Jordan starred at the floor, raised his eyebrows but made no comment.

Subsequent to this meeting, the Regional Attorney and I were ordered to conduct Limited Scope Commissioners Charge training for the staff. On Monday, October 3, 1983 I conducted said training for the staff of ATDO.

NOTE:

On August 4, 1983, a Limited Scope Commissioner's Charge package had been disseminated to All ATDO personnel including Mr. Pennington.

--- On September 6, 1983 I had prepared a proposal to Reduce Barbara J. Jones, Supervisory EOS in Grade for Conduct (see exhibit 13) Mr. Jordan ordered me not to present the proposal to Ms. Jones. I was also ordered to turn over the file, that I had developed in support of my proposal, to Mr. Jordan. To this date the file has not been returned to me. Ms. Jones is now on a special assignment to the Director and has been awarded a ("most favorable position") in the District Office

--- On several occasions, the Deputy Director has told me of Mr. Jordan's dislike for Mr. McPherson. He has stated that Mr. Jordan's hostile feelings for Mr. McPherson stems from a incident in 1972 when Mr. McPherson disagreed with Mr. Jordan during a training session. Mr. Beasley has related the above incident when "Warning Me" not to challenge Mr. Jordan's policies. He has stated: "The man does not forget" "that's why McPherson is in trouble".

RELIEF SOUGHT:

1. The immediate restoration of my FY/83 Merit Pay Appraisal to that of a Level 5 - Outstanding Performance.
2. That henceforth and forever more George Frank Jordan be removed, from any involvement, as either Appraising Official and/or Reviewing Official during Monthly, Quarterly and/or Annual ratings of my Performance under Merit Pay.
3. That Mr. Jordan's superiores conduct an objective investigation of allegations lodged by me and other members of the staff of the Atlanta District Office. If these allegations are found to be meritorious, Mr. Jordan should be removed from his position of District Director of Atlanta District Office for conduct unbecoming a District Director of the U.S. Equal Employment Opportunity Commission.

4. SUMMARY PERFORMANCE REVIEW

STANDARDS NO.	LEVEL OF ATTAINMENT	POINTS	COMMENTS
1a	Exceeded	4	See section 3 for comments
1b	Exceeded	4	See section 3 for comments
1c	N/A	N/A	See section 3 for comments
1d	Met	N/A	See section 3 for comments
1e	N/A	N/A	See section 3 for comments
1f	Exceeded	4	See section 3 for comments
1g	Exceeded	4	See section 3 for comments
1h	Exceeded	4	See section 3 for comments
1i	Met	3	See section 3 for comments
1j	Met	N/A	See section 3 for comments
2a	N.A	N/A	See section 3 for comments
2b	Exceeded	4	See section 3 for comments
2c	Exceeded	4	See section 3 for comments
2d	Exceeded	4	See section 3 for comments
2e	N/A	N/A	See section 3 for comments
3a	Met	3	See section 3 for comments
3b	Exceeded	4	See section 3 for comments
3c	Exceeded	4	See section 3 for comments
4a	Exceeded	4	See section 3 for comments
4b	Exceeded	4	See section 3 for comments

SUMMARY PERFORMANCE REVIEW. Review actual degree of attainment for each Standard and indicate level of attainment by using the following description (defined below) as well as other appropriate comments to substantiate levels of attainment: Exceeded (4 Points); Met (3 Points); Failed to Meet (1 Point).

EXCEEDED - The level of performance or accomplishment (result) was at or above the criteria defined by the "Exceed" Level of Performance.

MET - The level of performance or accomplishment (result) was consistent with the criteria defined by the "Meet" Level of Performance.

MET AFTER MODIFICATION - The level of performance or accomplishment (result) was inconsistent with the criteria defined by the "Meet" Level of Performance after modification to account for circumstances beyond the control of the employee to include changes in supervisory and/or shift in priorities.

FAILED TO MEET - The level of performance or accomplishment (result) was less than the criteria defined by the "Meet" Level of Performance.

5. PERFORMANCE SUMMARY

A. AVERAGE POINT SCORE	B. JOB ELEMENT RATING: EXCEED	MEETS	FAILS TO MEET
1 = 3.8	X		
2 = 4.0	X		
3 = 3.8	X		
4 = 4.0	X		

PERFORMANCE SUMMARY. Summarize by averaging the points received for all standards listed under job elements. Record the average point score for each job element in Column A.

Use the following scale to designate an individual job element rating in Column B.

Exceeds - Achieves average score of 3.5 or greater for the job element.

Meets - Achieves average score of at least 3.0 for the job element.

Fails to Meet - Fails to achieve an average score of 3.0 for job element.

...MARY PERFORMANCE REVIEW

STANDARDS LEVEL OF ATTAINMENT	POINTS	COMMENTS
Exceeded	4	See section 3 for comments
N/A	N/A	See section 3 for comments
N/A	N/A	See section 3 for comments
N/A	N/A	See section 3 for comments
N/A	N/A	See section 3 for comments
Met	3	See section 3 for comments
N/A	N/A	See section 3 for comments
N/A	N/A	See section 3 for comments
Exceeded	4	See section 3 for comments
Met	N/A	See section 3 for comments
N.A	N/A	See section 3 for comments
Exceeded	4	See section 3 for comments
Exceeded	4	See section 3 for comments
Exceeded	4	See section 3 for comments
N/A	N/A	See section 3 for comments
Met	3	See section 3 for comments
Exceeded	4	See section 3 for comments
Exceeded	4	See section 3 for comments
Exceeded	4	See section 3 for comments
Exceeded	4	See section 3 for comments

...MARY PERFORMANCE REVIEW. Review actual degree of attainment for each Standard and ...levels level of attainment by using the following description (defined below) as well as other ...cepriate comments to substantiate levels of attainment. Exceeded (4 Points); Met (3 Points); ...t to Meet (1 Point).

EEDED - The level of performance or accomplishment (result) was at or above the criteria defined ...the "Exceed" Level of Performance.

T - The level of performance or accomplishment (result) was consistent with the criteria defined by ... "Meet" Level of Performance.

T AFTER MODIFICATION - The level of performance or accomplishment (result) was consistent ...h the criteria defined by the "Meet" Level of Performance after modification to account for ...umstances beyond the control of the employee to include changes in resources and/or ...t in priorities.

...LED TO MEET - The level of performance or accomplishment (result) was less than ... criteria defined ... "Meet" Level of Performance.

...RC FORM 699 (1...

5. PERFORMANCE SUMMARY

A. AVERAGE POINT SCORE	B. JOB ELEMENT RATING: EXCEED	MEETS	FAILS TO MEET
1 = 3.7	X		
2 = 4.0	X		
3 = 3.8	X		
4 = 4.0	X		

PERFORMANCE SUMMARY. Summarize by averaging the points received for all standards listed under job element. Record the average point score for each job element in Column A.

Use the following scale to designate an individual job element rating in Column B.

Exceeds - Achieves average score of 3.5 or greater for the job element.

Meets - Achieves average score of at least 3.0 for the job element.

Fails to Meet - Fails to achieve an average score of 3.0 for job element.

FAR

A-1

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(Exhibit 3) APPENDIX A (CON'T.)

SUMMARY PERFORMANCE REVIEW

STANDARDS LEVEL OF ATTAINMENT	POINTS	COMMENTS
Met	3	
N/A		
N/A		
N/A		
Failed to Meet	1	
Met	3	
N/A		
N/A		
Met	3	
N/A		
Exceeded	3.5	

SUMMARY PERFORMANCE REVIEW. Review actual degree of attainment for each standard and assess level of attainment by using the following description (Failed Twice) as well as other appropriate comments or substantiating levels of attainment. Exceeded (4 Points) Met (3 Points) Failed to Meet (1 Point).

EXCEEDED - The level of performance or accomplishment (result) was at or above the criteria defined as the "Exceed" Level of Performance.

MET - The level of performance or accomplishment (result) was consistent with the criteria defined by the "Meet" Level of Performance.

MET AFTER MODIFICATION - The level of performance or accomplishment (result) was consistent with the criteria defined by the "Meet" Level of Performance after modification to account for circumstances beyond the control of the employee or lastly changes in assignment and/or [illegible] conditions.

FAILED TO MEET - The level of performance or accomplishment (result) was less than

3. PERFORMANCE SUMMARY

A. AVERAGE POINT SCORE	B. JOB ELEMENT RATING EXCEED	MEETS	FAILS TO MEET
2.5			X
3.5	X		

PERFORMANCE SUMMARY. Summarize by averaging the points received for all standards listed under job elements. Record the average point score for each job element in Column A.

Use the following scale to designate an individual job element rating in Column B.

Exceeds - Achieves average score of 3.5 or greater for the job element.

Meets - Achieves average score of at least 3.0 for the job element.

Fails to Meet - Fails to achieve an average score of 2.9 for job element.

ATTACHMENT A (CON'T.)

MMARY PERFORMANCE REVIEW

STANDARDS LEVEL OF ATTAINMENT	POINTS	COMMENTS
Exceeded	3.5	
Exceeded	3.5	
Met	3	
Met	3	
Met	3	
Met	3	
Met	3	

MARY PERFORMANCE REVIEW. Review actual degree of attainment for each Standard and ate level of attainment by using the following descriptive (defined below) as well as other ...ecific comments to substantiate levels of attainment. Exceeded (4 Points) Met (3 Points) ...s to Meet (1 Point).

CEEDED - The level of performance or accomplishment (result) was at or above the criteria defined by "Exceed" Level of Performance.

- The level of performance or accomplishment (result) was consistent with the criteria defined by ...eet" Level of Performance.

AFTER MODIFICATION - The level of performance or accomplishment (result) was inconsistent ...e criteria defined by the "Meet" Level of Performance after modification to expense ...ectives beyond the control of the employee or include changes in necessary ...ding ...n priorities.

...AS TO MEET. ...el of performance or accomplishment (result) was less than

3. PERFORMANCE SUMMARY

A. AVERAGE POINT SCORE	B. JOB ELEMENT RATING EXCEED	MEETS	FAILS TO MEET
3		X	
3			
		X	

PERFORMANCE SUMMARY. Summarize by averaging the points received for all standards listed under job elements. Record the average point score for each job element in Column A.

Use the following scale to designate an individual job element rating in Column B.

Exceeds - Achieve average score of 3.5 or greater for the job element.

Meets - Achieve average score of at least 3.0 for the job element.

Fails to Meet - Fails to achieve an average score of 3.0 for job element.

Appraisal Period 1/1/81 - 5/31/81. Brooks

1/4: summary sheet after ... Forwarded by Joy to eliminate N/A's ... appraisal ... to eliminate N/A.

SUMMARY PERFORMANCE REVIEW

STANDARDS LEVEL OF ATTAINMENT	POINTS	COMMENTS
Exceeded	4	No labor relations problems. Terms of labor agreement known and adhered to. All breaches appropriately and swiftly dealt with.
Exceeded	4	All personnel actions conducted in an expeditious manner and in conformity with agency's criteria.
Met	N/A	Vigorously supports affirmative action.
Exceeded	4	Holds weekly and sometimes daily meetings with subordinates to review progress with plans and provide direction. Exceeded all production requirements under Performance Element 2.

SUMMARY PERFORMANCE REVIEW. Review actual degree of attainment for each Standard and discuss level of attainment by using the following descriptions (defined below) as well as other appropriate comments to substantiate levels of attainment: Exceeded (4 Points); Met (3 Points); Failed to Meet (1 Point).

EXCEEDED - The level of performance or accomplishment (result) was at or above the criteria defined in the "Exceed" Level of Performance.

MET - The level of performance or accomplishment (result) was consistent with the criteria defined by the "Meet" Level of Performance.

MET AFTER MODIFICATION - The level of performance or accomplishment (result) was consistent with the criteria defined by the "Meet" Level of Performance after modification to account for circumstances beyond the control of the employee to include changes in resources and/or shift in priorities.

PERFORMANCE SUMMARY

A. AVERAGE POINT SCORE	B. JOB ELEMENT RATING: EXCEED	MEETS	FAILS TO MEET

PERFORMANCE SUMMARY. Summarize by averaging the points received for all standards listed under job element. Record the average point score for each job element in Column A.

Use the following scale to designate an individual job element rating in Column B.

Exceeds - Achieves average score of 3.5 or greater for the job element.

Meets - Achieves average score of at least 2.6 for the job element.

Fails to Meet - Fails to achieve an average score of 2.6 for the job element.

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ATTACHMENT A (Illustration 5)

SUMMARY PERFORMANCE REVIEW

STANDARD	LEVEL OF ATTAINMENT	POINTS	COMMENTS
1.	Exceeded	4	Reports, congressional correspondence and other materials are submitted within timeframes. No returns.
2.	N/A	N/A	No priority assignments initiated by the Chairman.

SUMMARY PERFORMANCE REVIEW. Review actual degree of attainment for each standard and indicate level of attainment by using the following description (defined below) as well as other appropriate comments to substantiate levels of attainment: Exceeded (4 Points); Met (3 Points); Failed to Meet (1 Point).

EXCEEDED - The level of performance or accomplishment (result) was at or above the criteria defined by the "Exceed" Level of Performance.

MET - The level of performance or accomplishment (result) was consistent with the criteria defined by the "Meet" Level of Performance.

MET AFTER MODIFICATION - The level of performance or accomplishment (result) was consistent with the criteria defined by the "Meet" Level of Performance after modification to account for circumstances beyond the control of the employee to include changes to resources and/or shifts in priorities.

FAILED TO MEET - The level of performance or accomplishment (result) was less than

I. PERFORMANCE SUMMARY

A. AVERAGE POINT SCORE	B. JOB ELEMENT RATING: EXCEED	MEETS	FAILS TO MEET

PERFORMANCE SUMMARY. Summarize by averaging the points received for all standards listed under job elements. Record the average point score for each job element in Column A.

Use the following scale to designate an individual job element rating in Column B:

Exceeds - Achieve average score of 3.5 or greater for the job element.

Meets - Achieve average score of at least 2.5 for the job element.

Fails to Meet - Fails to achieve an average score of 2.5 for the job element.

PART III

3rd Quarterly Sheet after Jordan awarding Army's 6 months 11/19's = Final Assessment. (Exhibit 6)

4. SUMMARY PERFORMANCE REVIEW

Item	STANDARD: Level of Accomplishment	Points	Comments
1.			
a.	Met	3	
b.	Met	3	
c.	Met	3	
d.	N/A		
e.	~~Failed to Meet~~	1	NOT WITH MODIFICATION
f.	Met	3	
g.	Met	3	
h.	Met	3	
i.	Met	3	
2.			
a.	N/A		
b.	Exceeded	4	Exceeded Requirement

SUMMARY PERFORMANCE REVIEW. Review award degree of attainment for each standard and indicate level of attainment by using the following descriptors (listed below) as well as other appropriate comments to substantiate levels of attainment. Exceeded (4 Points); Met (3 Points); Failed to Meet (1 Point).

EXCEEDED - The level of performance or accomplishment (result) was at or above the criteria called by the "Above" Level of Performance.

MET - The level of performance or accomplishment (result) was consistent with the criteria called by the "Met" Level of Performance.

NOT AFTER MODIFICATION - The level of performance or accomplishment (result) was inadequate with the criteria called by the "Met" Level of Performance after modification to correct the inadequacies beyond the standard to enable changes to assessment and/or comments.

5. PERFORMANCE SUMMARY

a. AVERAGE POINT SCORE	b. JOB ELEMENT RATING: EXCEED	MEETS	FAILS TO MEET
1			1
2.2			X
4	X		

PERFORMANCE SUMMARY. Summarize by averaging the points received for all standards listed under job elements. Record the average point score for each job element in Column A.

Use the following scale to determine an individual job element rating in Column B.

Exceeds - Achieves average score of 3.5 or greater for the job element.

Meets - Achieves average score of at least 2.0 for the job element.

Fails to Meet - Fails to achieve an average score of 1.9 for job element.

(Example 6).

ATTACHMENT No. 1

I. SUMMARY PERFORMANCE REVIEW

No.	Standard — Level of Attainment	Points	Comments
c.	Exceeded	4	Exceeded Requirement
d.	Exceeded	4	Exceeded Requirement
e.	N/A		
3.			
a.	Met	3	
b.	Met	3	
c.	Met	3	
4.			
a.	Met	3	
b.	Met	3	

II. PERFORMANCE SUMMARY

A. Averaged Point Scores	B. Job Element Rating — Exceeds	Meets	Fails to Meet
3		X	
3			
		X	

SUMMARY PERFORMANCE REVIEW: Review actual degree of attainment for each standard and indicate level of attainment by using the following descriptive (Exceed Level) as well as other appropriate comments to substantiate levels of attainment. Exceeded (4 Points) Met (3 Points) Failed to Meet (0 Points)

EXCEEDED - The level of performance or accomplishment (result) was at or above the criteria defined by the "Exceed" Level of Performance

MET - The level of performance or accomplishment (result) was consistent with the criteria defined by the "Meet" Level of Performance

MET AFTER MODIFICATION - The level of performance or accomplishment (result) was consistent with the criteria defined by the "Meet" Level of Performance after modification to assignment because employee found the amount of time/effort to be a change in assignment and/or failed to produce.

PERFORMANCE SUMMARY: Summarize by averaging the points received for all standards listed under Job Element. Record the average point score for each Job Element in Column A.

Use the following scale to designate an individual Job Element rating in Column B:

Exceeds - Achieves average score of 3.5 or greater for the Job Element

Meets - Achieves average score of at least 2.0 for the Job Element

Fails to Meet - Fails to achieve an average score of 2.0 for Job Element

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

NOV 29 1983

MEMORANDUM

TO : Donald W. Muse, Director
Seattle District Office

THROUGH : Francisco Flores, Director
Region III Programs

: John Seal
Management Director

FROM : Lawrence Bembery, Director
Administrative Management Services

SUBJECT : 706 Agency Interface through Displaywriters: Your Suggestion of September 30, 1983

Thank you for what has proven to be a timely suggestion regarding the ADP interface of our 706 Agencies with our Districts and the Commission overall.

We have begun working with both the Office of Program Operations and Financial Management Services to develop a contract proposal for the technical consultation required to define the hardware and software implications of linking the 706 agencies to our ADP system and to improve the case management process.

We concur with the Office of Program Operations that the overall objective suggested by you should be incorporated in the study. And certainly, depending upon the results of the consultative contract, we would want to see the Seattle Office in the lead of any pilot that the Commission might decide to undertake. In that regard, I have suggested that the Office of Program Operations and Financial Management Services consult you for your input to insure that we address all pertinent issues for this project.

cc: Harold Sye, Director
Computer Systems Management Division

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

November 30, 1983

MEMORANDUM

TO: Clarence Thomas, Chairman
Equal Employment Opportunity Commission

FROM: Odessa Shannon, Director
Office of Program Operations

SUBJECT: Atlanta District Office

As you are aware, we received a petition, Subject: "Lack of Confidence in OUR District Director" from 42 bargaining unit employees in early November. After our discussion, the Regional Program Director and I visited the Atlanta District Office to obtain specific information regarding the employees' allegations. Although we interviewed the managers, supervisors, and employees who signed the petition, we did not obtain information in sufficient detail to determine the veracity of the allegations nor did we obtain information to assess results of any managerial actions alleged to be questionable. We did learn enough to determine that the compliance supervisors are equally as distraught as employees and that the need for specific information, and ultimate decisions by Program Operations, is greater that we originally envisioned.

Therefore, Region I staff spent three days in the Atlanta Office and amassed considerable specific information about the Atlanta operation. Region I's report is being prepared and will be completed in sufficient detail on which to base firm decisions regarding the Atlanta situation. The full report will be completed by December 5. However, the major findings of the office review are as follows:

1. The manager's personal emphasis on increasing productivity and movement of charges resulted in deficiencies in charge processing during the 3rd and 4th quarters. 52% (62) of the 119 charges reviewed, all of which were closed during these quarters, were found to be deficient in either evidentiary development or adherence to prescribed procedures. There is no indication that the District Director intended, through his case review sessions with individual employees, to shortcut or curtail the investigative process. Nevertheless, the general perception of both supervisors and employees is that charges were closed rapidly in order to meet the communicated managerial demands.

2. Office reorganization resulted in the establishment of new program units and abolishment of others, which deviated from normal program unit staffing and office case processing methodology. Additional Age and Equal Pay units were established without a caseload of individual charges in the inventory, i.e., the normal basis for program unit staffing decisions. Additional CIC/ELI units were established anticipating the development and investigation of a large number of limited scope commissioner charges. The number of factfinding units was reduced, causing two-thirds of incoming charges to be assigned to traditionally extended investigative units for complete processing. It is noted that Atlanta has been overstaffed since the beginning of FY-83 and that the manager apparently took these actions to utilize personnel because of this situation.

3. An inordinate amount of Age/Equal Pay directeds (898) were initiated during 3rd and 4th quarters. This activity was also directed toward the utilization of staff, rather than any apparent reason to believe that respondent situations demonstrated potential violations. While it is not clear that specific instructions, regarding the numbers of such cases to be initiated came from the Director, staff followed mid management's interpretation of instructions as communicated by the Deputy Director.

4. A large number of limited scope commissioner charges has been developed by staff. Because of the overstaffing, Region approved the concept of moving into this charge processing area, to some degree. However, mid management communicated to staff specific production goals in this regard. Upper management does not confirm the origin of these production standards. Nevertheless, they were viewed as rigid expectations of upper management.

5. At the direction of top management, specific GPAD and Merit Pay standards, in effect during the rating period, were rendered "not applicable" at the end of the period. The Director was personnally involved in the rating process for both Merit Pay and GPAD employees. While there is no prohibition against this involvement, in effect, it caused some GPAD and Merit Pay ratings to be raised or lowered without previously set guidelines being communicated to rating or reviewing officials or employees.

6. Some bargaining unit employees have been moved from their assigned program units and are completing unclassified duties, in the Voluntary Assistance and Expanded Presence Program areas, without position descriptions. Atlanta is a pilot office for voluntary assistance, however, the Agency does not envision the utilization of bargaining unit employees in this effort. Expanded presence has not been negotiated with the Union to date.

7. The management style of the District Director, coupled with the historically questionable management skills of the Deputy and other mid managers, have caused employees and supervisors to question the Director's motives in all areas of activity surrounding office operations. The Director's personal oversight of employee work habits, his locking of stairwells, his reassignment of "some" employees, and his frequent unannounced environmental review of individual offices and work areas, appear to be based on identified problems regarding security and employee conduct; some of which Region was well aware. However, the obvious lack of communication flowing downward from the Director, the lack of full staff meetings where reasons for changes were explained, the total dependence on the Deputy to "carry the message," and the distance placed between the Director and staff below the Deputy, have exacerbated an already serious office situation.

Historically, the Atlanta Office has not performed as well as other Districts in the Commission. Previous Directors, who have tried to exact a higher level of performance and conduct from the Atlanta staff, have encountered similar kinds of group responses, i.e., petitions, group and individual grievances, clandestine contacts with headquarters acquaintances, and lack of production. Region I made the new Director aware of this historical perspective prior to his arrival in Atlanta on June 6, 1983. He was also alerted to the "demonstrated" softness of middle management, specifically their lack of management skills and inability to place the mission and focus of the Agency above their own personal interests. It is noted that the Deputy and both Compliance Managers have been "Acting" Directors of EEOC field offices and each aspired to the Atlanta Directorship to which Betty Adams was appointed in 1979.

With the information amassed and this background, Region I staff will make the following recommendations:

A. That Region I, after development of the final report, counsel the District Director and direct corrective action regarding all activities found deficient during this review. Region I will closely monitor all activities in the Atlanta District Office for the next six months and take further corrective action, including disciplinary measures, if the communicated directions are not followed.

This recommendation is based on the realization that the District Director has had an exemplary performance record as a manager in the Agency and should be given the opportunity to apply those skills, on which the record is based, to the Atlanta Office. This, of course, means some alteration in his management style, which Region believes it can foster. Further, we do not believe it to be good management to set a precedent by reassigning a Director, as the direct result of employee discontent and overt request. Rather, the decision to take action should be initiated by management, after the manager has had sufficient opportunity to succeed and has failed.

B. That the Deputy Director and both Compliance Managers be reassigned to other EEOC offices and given the opportunity to perform, with strict accountability, under different management. Region believes that neither Compliance Manager will perform adequately in the Atlanta District, since they have both personalized the instant situation. While District management has attempted to resolve their grievances, their demeanor during the interview suggests that they will not let the matter drop and will not fully cooperate with the current Director.

I will forward the final report to you when it is complete. I will be available to discuss this preliminary report at your convenience.

REPORT ON THE ATLANTA DISTRICT OFFICE

In November, 1983, Region I received, via mail, a petition from Atlanta District Office employees; Subject: "Lack of Confidence in OUR District Director." This petition listed 16 areas of employee concern, which they labeled "acts of misfeasance" completed since the arrival of the new District Director, was signed by 42 bargaining unit employees, and was dated October 31, 1983. In order to obtain specific information regarding the petitioners' allegations, the Program Director and Regional Program Director visited the Atlanta Office on November 4. During this visit, interviews were conducted with the Director, Deputy Director, one Compliance Manager, the petitioners, two Union Stewards, and all Compliance Supervisors. While the interviews did not yield the specific information desired, it was determined that the compliance supervisors were equally as distraught as the employees, as evidenced in their joint interview and by their submittal of a separate petition signed by 8 of the 9 compliance supervisors. Their petition; Subject: "Lack of Professional Confidence in the District Director", contains 13 items of disgruntlement, which are generally consistent with the employee petition and is dated October 27, 1983. (Tabs 1 & 2)

Region I Staff Supervisor and three staff members visited the Atlanta District Office November 15-17, 1983 to obtain specifics regarding "both" sets of allegations and on which to base Regional recommendations for the Program Director. The team reinterviewed all Atlanta personnel listed above, additional non-compliance supervisors, and some employees who did not sign the petition, and completed close review of 119 charge files. Each of the employees, who signed the petition were given an interview sheet, which elicited the specific types of information desired. The employees, although vocal during the interviews, declined to complete and submit the interview form.

The allegations of both groups, employees and supervisors, have been combined under three headings; charge processing, policy matters, and general management. The allegations, as cited in the petitions and during interviews, and staff findings appear below under these headings:

ALLEGATIONS AND FINDINGS

Charge Processing

1. Employees alleged that the District Director ordered individual EOSs to close charges without proper investigation, (#1 & 7 - Employee petition)

The District Director, shortly after appointment, met with each compliance EOS along with his/her supervisor, compliance manager, and the Deputy Director, and reviewed, with the employee, the cases in their workload. Based upon the EOS's status reports, the Director assigned specific closing dates, after indicating necessary steps to be taken to complete the case. Information from the interviews revealed that followup reports were developed on a weekly basis, and sent to the Director with expected completion dates. Employees stated that often the reports came back with the dates moved forward.

It is clear that the Director completed the "one-time" reviews with individual employees and that these sessions, new to Atlanta employees, left a clear impression. However, there is no indication, whatsoever, that his directions, regarding time frames for closure, were "orders" to preclude any of the normal steps in the investigative process.

It is noted that Atlanta's "overall" quarterly production (closures) almost doubled during the third and fourth quarters, from approximately 550 each of the lst two quarters to over 1000 each of the last two quarters. Regional Staff's review of case files revealed that 52% (62) of the 119 closures reviewed were deficient. Examples of the deficiencies found were: insufficient comparative evidence (041832324), no information in the file (041832638), closure for failure to cooperate in spite of CP contact (041832080), failure to document 30 days notice prior to dismissal (041762754), and the like. One file, worthy of note, contained the following log (Form 159) entry: "This file is being closed based on the evidence in file and instructions given me by the Director and Supervisor." The complete list of charge numbers reviewed is attached. (Tab 3)

It is apparent that employees believed, admittedly through their contact with supervisors, that the charges were to be closed at an accelerated pace. While the genesis of this perception may have been the Director's personal emphasis on case movement, no employee or supervisor indicated further personal contact with the Director, on this subject, after the individual sessions mentioned above. Supervisory and Compliance Manager review of these files, prior to closure, is evident, and other than the log entry mentioned above, there are no EOS dissenting memoranda in the files, as allowed by the Compliance Manual. Therefore, culpability in closing deficient charges must be shared by those who now bring the instant concerns.

2. Supervisors and employees allege that management reorganized the office, abolishing existing units and establishing new units without orientation of new employees or giving prior notice. (Employee Petition #12, Supervisors Petition #1A)

Pre-appointment and subsequent mid-summer discussions between the Director and Regional Director concluded that "some" staff shifts would be necessary in order to fully utilize excessive staff. Atlanta has been overstaffed in professional compliance positions since, at least, the beginning of the FY-83. Development of Limited Scope Commissioner Charges and the creation of a task force to investigate the "old" J. P. Stevens Commissioner charges were agreed upon as measures that could be taken. Only the latter required establishment of a separate taskforce .. and then only for the duration of the Stevens project.

However, the August 1 staffing chart does not reflect the existence of a CIC/Other unit, but does reflect the establishment of two additional CIC/ELI units and 22 EOSs divided among the three CIC/ELI units. (Tab 4) Third Quarter reports to Region revealed that only 20 cases (61 charges) were pending in active ELI status on June 30.

The Director's August 4 memorandum points out that a major focus of the new ELI units would be limited scope charges. The three ELI supervisors stated that they were required by the Compliance Managers to develop 6 Limited Scope Commissioner Charges per employee for a total of 100 charges for the three units by the end of the FY. The Compliance managers echoed the supervisors; stating that the instructions came from the Director through the Deputy. Interviews revealed that information surrounding 300 respondents was reviewed, and that this "EOS" work yielded 30 limited scope charges that were approved. Therefore, this was the primary activity of the ELI units during the last quarter. While it is clear that none of these instructions to supervisors were given by the Director, they believe that he ordered them. (Tab 5)

On October 6, 1983, in a supervisory meeting with the Deputy Director, supervisors were given a new list of employees in their units and some were given new supervisory assignments. The effect of this "reorganization" was to establish additional Age and Equal Pay Units, bringing the office to two each, to reduce the factfinding units from 2 to 1, and to reduce CIC/ELI to two units, adding CIC/Other to the ELI units. The October 15 staffing chart reflects the new organization. (Tab 6)

During interview, the supervisors were concerned about the shifts being made without prior notice and that some supervisors and employees were placed in areas where they had no knowledge or experience. There is no indication that the staff shifts were announced prior to the October 6 meeting. 3 supervisors were moved to new units; i.e., Mullins, Townsend, and Paschall.

It is clear that the additional Age and Pay units were established to handle the numerous Directed Investigations that had been worked up during the last quarter. The review revealed that there are few individual charges filed by charging parties, these charges normally serve as the basis for staffing program units, not directed charges that are developed by the office. Compliance Managers and supervisors stated that they were required, by the Director, to develop 100 directed investigations per month in the Age and the Equal Pay units during the last quarter (600). The review team was unable to determine exactly how this directive was given. However, it is clear that the Atlanta Office ended the FY with 828 pending directed investigations. . . while reporting a total of 68 at the end of the 3rd quarter.

The Director stated that "Continued Investigations and Conciliation units still exist to this date. These functions are being completed in the Atlanta District Office." However, the August staffing chart did not reflect a "unit" to which CIC-Other charges would have been assigned, and lends some credence to the supervisors' allegation that this unit was, in effect, abolished. Moreover, the charges that were not completed by factfinding, during this period, were forwarded to one of the three CIC/ELI units for writeup and closure. Therefore, while there was no identified CIC-Other unit as the Director stated, the work was being completed.

Two additional new units (1 Age and 1 Equal Pay) were established. Clearly, this is part of management's effort to utilize excessive staff, after development of such a large number of Age and Equal Pay directed investigations. The manner in which units were established, and employees and supervisors assigned, obviously disturbed the staff to the point of singular outcry.

Supervisors also alleged, during interviews, that as the result of the October reorganization, directions were given to stop holding factfinding conferences and to hold "on-site" investigations in every charge. It was stated that these directions were given to Compliance Managers by the Director. The Director stated that factfinding conferences remain part of the procedures in the Atlanta Office when charges warrant such a conference. He also stated that he did not tell staff that they must go on site for every charge. Rather, he informed staff of the Chairman's inclination toward on sites. He notes, however, that there were neither factfinding conferences nor on site investigations held during October.

The factfinding supervisor stated that he was under the impression that no conferences would be held and therefore did not hold any. A November 3 memorandum initiated by the Compliance Managers quotes their version of instructions, regarding on sites on all charges, given by the Director, in the Deputy's office on November 1, 1983. This memo also states that the Compliance Managers "are to develop procedures for on-site investigations for the November 7 training session and that 4 closures were returned to them for on sites to be completed." The review team also obtained copies of an Atlanta form memo, Subject: Guidelines for No On-Site Investigation: Charge #, which appears to be used in obtaining the Deputy's "charge specific" permission not to hold an on site in a particular charge. (Tab 7)

Whether or not such directions were given by the Director, the Compliance Managers have communicated their interpretation to staff and at the time of the review, were following the above modus operandi, although no "on sites" had been held. Unless the above was fabricated by the disgruntled managers, whatever information was dispersed by management, regarding on site investigations, was not communicated in writing.

Policy Matters

1. Employees and Supervisors alleged that the Director imposed unrealistic and/or unreasonable production goals on the charge processing units. (Employee petition #2 & Supervisors Petition #1b)

Both Supervisors and employees state categorically that they were held to a higher production standard in charge processing than was a part of the FY-83 GPAD appraisal system. Supervisors stated that the Deputy orally communicated to them the Director's requirement that each EOS close 1 charge per work day or 5 charges per week during the last quarter. Compliance Managers echoed this allegation during interview with the Program and Regional Directors, reinterview with Region I staff, and in their greivances against the Director. NOTE: Wording in one of the Compliance Manager's grievances is almost identical to the allegation in the Supervisors' petition. In support of this allegation, one supervisor submitted a tracking report from an employee which suggests that assignments and closures were, in that unit, being tracked by the week. (Tab 8)

Neither the Director nor the Deputy Director agree that these requirements were place on the units. Both managers stated that each employee should work to his/her maximum capability. "If one could complete 20 to 30 a month, I expect the employee to do so. I want everyone to achieve at the maximum," is the Director's quote given to the review team by the Deputy. The Deputy did not state how he communicated this information to the staff. Rather, he said that "although I express my opinion and/or disagreement at times, I do what 'the man' says."

The Director apparently put in place a form memoranda, initialed by himself, to employees advising them periodcially of the number of charge closures needed in order for them to meet the GPAD requirements. The memo, dated July 12, Subject: FY-83 Performance, reads . . .in pertinent part . . . "In view of the requirement to complete 63 charges by September 30, you should have completed at least 31.5 charges by June 30, 1983. Therefore,

to ensure your completing the 63 charges required on or before September 30, you must complete an average of at least ____ charges for the months of July, August, and September." Clearly, this memoranda did not raise the GPAD standards. (Tab 9)

However, from all accounts, management did not provide any clarification, in writing, when confronted by the Union on the "unreasonable processing demands" perception. It is clear that both employees and supervisors believed tha the 20 charge closure per week requirement was in effect, which they both state had negative impact on the quality of their closures. Again, there is considerable conflict in what management implies it communicated and what was heard and acted upon by employees.

2. Employees and Supervisors alleged that the Director required changes to employees ratings to satisfy his whims and caprice and that these changes were in conflict with the published appraisal procedures. (Employees Petition #4 & Supervisors Petition #2A & B)

Merit Pay employees' FY-83 ratings contain several job standards that were made "not-applicable" although there were accompanying written comments supporting the rating, from the appraising official. The Compliance Managers' ratings, however, had no written commentary in the areas rendered not applicable. The interview with Deputy Director and written comments by the Director revealed the Director's position, that he exercised his authority as the reviewing official. . .for the purpose of insuring consistency in the performance appraisal system by subordinate rating officials. The Deputy also stated that the Director made the standards N/A when the rating official did not have necessary supporting documents, but that he subsequently changed some N/As to meets, when too many N/As would hurt the employee.

Regional Staff's review of the rating forms revealed that in each instance where a standard was rendered not applicable, the employee had been given "adequate progress" at the mid year review. Merit Pay guidelines do not provide for rendering standards N/A at the end of the rating year. Rather, when a standard is no longer applicable, it is standard practice that modifications to the agreement be made at the time. It is also clear that the reduction in number of standards to be rated has a deleterious effect on the employee's chances to meet or exceed an element; although there is no indication that such a motive was prevalent in this situation. The Director points out that after his arrival, the employees did not perform duties consistent with the standards rated not applicable. While the Director's involvement in the process clearly altered ratings previously assigned by the Deputy and others, he clearly acted within his authority. However the actions completed are questionable.

3. Employees and Supervisors alleged that the Director reassigned employees from units to special assignments which disrupted the work flow and created an atmosphere of insecurity and low morale. (Employee Petition #5, 6 and 13 & Supervisor Petition #3b)

The October staffing chart indicates that while some EOSs are assigned to units, they are engaged in other activities, i.e., planning for the Voluntary Assistance and Expanded Presence Programs. Further, the Deputy Director's memorandum, dated October 28, show these same emplyees (Tonsler, Arnold, Pennington, Ricks, Hayes, and Jennings) as members of the management staff. It is clear that these employees have been, since mid 4th quarter, completing "duties" that are to be associated with the above Agency initiatives, apparently without official position descriptions. They are all members of the bargaining unit.

Employees are extremely disgruntled, since they believe that these employees have been upgraded (promoted) or at least have been selected for "better" jobs without competition. The Union stewards raised this point in each interview session. Supervisors were disgruntled because some of them were required to evaluate the employees although they were not actually in their units at the end of the rating period.

However, there is no doubt that these employees have been utilized in getting the Voluntary Assistance and Expanded Presence Program underway. Atlanta is a pilot office for Voluntary Assistance and has scheduled their 1st seminar for early December.

Utilization of these employees does place the office in a tenuous situation since, the Agency does not envision using bargaining unit employees in the Voluntary Assistance Program and since Expanded Presence has not been negotiated with the Union.

General Management Items

1. Supervisors alleged that the Director has made strict compliance with certain standards for office appearance mandatory. (Supervisors Petition #4A & B)

The supervisors, in interview, stated that the Director imposed an office appearance standard on them and their employees that was unclear and that, when an employee did not meet the unclear standard, the Director required that the employee's rating be reduced. Supervisors related one instance in which a supervisor's rating was reduced because he refused to lower the rating of a clerk in his unit. One Supervisor stated that he was released from this direction after talking with the Director about it at length. The supervisors finally alleged that the Director conducted unannounced tours of the office space and took notes on office conditions without discussion his observation with them or the employees, but using the observations at rating time. The employees, in interview, lodged the same allegation.

The Director stated that employees were judged on the basis of the office appearance standard in each appraisal agreement and indicated that no further clarification was required. (Tab 10) The Deputy Director issued a memo on the subject on July 15, which only states that inspection tours would be conducted. (Tab 11)

It is apparent that an "office appearance" standard was imposed by the Director and from the material gathered, the standard was the same as the one imposed on all Commission employees. It is also true that the Director expected strict adherence and accountability and was within his overall authority to develop consistency among his rating/reviewing officials. However, this situation may have been avoided by some pre-tour discussion of what a "neat and businesslike" area meant in the Atlanta Office. It was clear during the interview process that neither employees nor supervisors had definitive knowledge of managerial expectations prior to the end of the rating period. The review team did not see any District written materials on the subject, beyond the Deputy's July memo, which specifies that only newspapers, cartoons, notes, and unprofessional materials are taboo.

2. Employees alleged that the District Director harassed employees by standing in the lobby and observing their times of arrival, by entering offices without knocking, and failing to speak to them. (Employee Petition #3)

Interviews with employees indicate that the Director stood in the lobby at arrival times. Employees assumed that he was checking on their arrival at and leaving the work station. The Director does not deny the employees' statement. Statements of supervisors, who did not sign the petition indicates that the office has had time and attendance problems. It was also agreed that the Director generally toured the office areas and entered office space.

Clearly, these allegations are trivial and spurious when taken at face value, and only serve to reflect the degree of employee distress with the personal style of the new Director. The Director is known to have a "reserved" personality which is directly opposite to that of the former Director. The presumption of harassment in these instances appears to be based squarely on a different style from which this office is accustomed.

3. Employees alleged that the Direcor refused to allow individual staff members to continue on previously established flexible work schedules and harassed employees for taking approved leave. (Employee Petition #8 & 10)

The review revealed that the Director did change the informal office policy of allowing specific employees to work flexible work hours. Atlanta is not one of the Agency field offices which has been approved for an official flextime program. It is the Director's responsibility to require that all employees adhere to normal work hours of the office.

Regarding leave, the employees gave one example where an employee was cautioned that approval of leave requests would be withdrawn unless the investigations assigned were completed before the date of the leave. The employee used the leave. However, without full circumstances, which the employees did not provide, there can be no indictment of the Director on this allegation. It appears, again, that the employees suspect the Director's motives in any individual action which is without full managerial explanation.

4. Supervisors and employees allege that the Director fails to communicate effectively with staff of the Atlanta District Office. (Employee Petition #15 & Supervisors Petition #7)

It is apparent from interviews with employees and supervisors that most interviewees believe that one of the major problems in the office is the lack of direct communication between the Director and all staff. The review revealed that the major communication efforts of the Director were processed through the chain of command. The Director held few, if any, full staff meetings, during which he explained the reasons for the changes in the office. The Director put almost no directions in writing and placed the burden for explanation and interpretation of his directions on the shoulders of the Deputy.

It is also apparent that considerable misinformation was conveyed to staff and supervisors. The review team's comparison of the statements of the Director and Deputy with those of Compliance Managers, supervisors, and employees, on the same subject, demonstrates this communication breakdown. One instance which clearly illustrates the problem involved the "new" productivity requirements. The Director stated that he wanted all employees to do as many closures as possible and that if they could do 20 per month, 30 per month, or 35 per month, they should do that amount. The Deputy also stated that this was what the Director said and wanted. This statement was converted somewhere in the chain of command into the "requirement" that EOSs should close one charge per day, 20 charges per month, etc.

The Director also stated, during the interview, that he was unaware of the problems in the office. This statement suggests that communication up the chain of command was no better than down the chain. It is informative to note that the Director relied almost completely on the Deputy, as noted above, to convey the thoughts and intentions of his new administration to staff. He had been informed by Region, prior to his appointment, that region had experienced problems with Deputy's ability to interpret and follow directions. It is also apparent that the Director allowed the Compliance Managers, whose motives are suspect based on their continual disgruntlement with previous management, to further interpret and "carry out" his directions. He had also been briefed on their past performance by Region. From all information obtained in the review, the Director never went beyond the Deputy Director level to discover what was happening to case processing, to staff, or to his overall program.

5. Unfair Labor Practice Allegations - (not alleged in employee or supervisor petition)

On November 7, 1983, Local #3599 President filed two unfair labor practices against the Commission. The Union alleged that Atlanta management refused to enter into good faith negotiations on the impact of new policies and procedures (4-CA-60068) and refused to provide requested data (4-CA-60067), as required by the collective bargaining agreement. The ULPs were forwarded to the Chairman by the Federal Labor Relations Authority (FLRA). District management apparently responded to the FLRA on 11/15/83, based on receipt of a copy of FLRA's correspondence to the Chairman. Management's response states that there has been no reorganization in the Atlanta Office, that all compliance functions remain in place, and that all staff assignments have been based on duties in employees' position descriptions. Headquarters Labor Relations Staff has asked FLRA to dismiss the ULP's because they should have been filed against the Atlanta Office, rather than the Chairman . . . to no avail. FLRA begans its investigation during the week of December 12, 1983, by interviewing Atlanta's union stewards and other bargaining unit employees.

Regional Conclusions

1. The District Director's personal emphasis on increasing productivity, as reflected in his individualized "case review" meetings with employees and followup individualized reporting, resulted in extremely high production totals during the 3rd and 4th quarters. While, there is conflicting information regarding the alleged transposition of this emphasis into "hard" production numbers, the production totals, when added to the deficiencies noted during the staff review, lend credence to the conclusion, that the employee/supervisory processing actions were based, in large measure, on their perception of management's desires. There is no indication that management intended, through emphasizing case movement, that the employees shortcut or curtail the investigative process. However, there is no indication that management took any action to correct the employee/supervisory perception of its desires, if, indeed, its intent was miscommunicated by subordinate managers or misconstrued by staff.

2. Despite managerial statements to the contrary, the office was, in effect, reorganized during the period in question. Additional Age and Equal Pay units were established, without a commensurate rate of incoming individual or class charges filed by disgruntled parties. Two additional CIC/ELI units were established, while the pending ELI workload was too small to justify the units. There was no identifiable CIC-Other unit as the District Office mission and function statement provides and which existed prior to these organizational changes. The number of fact finding units was reduced below the level of incoming individual charges, causing charges, normally assigned to fact finding, to be forwarded to the CIC-ELI units directly from intake. The noble intent of management was clearly to utilize excess staff in developing and investigating Age/Equal Pay Directed cases and Limited Scope Commissioner Charges. However, the result of the "reorganization" was to provide clear inference of instituting the ensuing field reorganization and implementing the "new" charge processing focus prior to either being approved for implementation by the Commission.

3. An inordinate number of Age/Equal Pay Directed charges was initiated during the 3rd and 4th quarters. Atlanta reported 68 such charges pending at the end of the 2nd quarter, but 828 pending at the end of the fiscal year. It is clear from staff review, that these charges were developed as the result of "perceived" managerial directions, rather than from empirically based beliefs that the respondents targeted had demonstrated "possible" violations of the Acts. It is noted that most of the Age Directeds are based on TEFRA, when Agency guidelines regarding same are, according to Legal Counsel, interim only and "not in concrete." There is conflicting information regarding the origin of the specific direction to establish such a high number of directed charges. However, it is clear that staff followed mid-management's stated interpretation of instructions communicated by the Deputy Director. This activity has resulted in Atlanta's FY-83 "to process" and pending workload reports being skewed, when staff is compared to workload in making District Office staffing decisions for FY-84.

4. A large number of limited scope commissioner charges has been developed by Atlanta staff. Because of overstaffing, Region approved the concept of moving into this charge processing area, especially since this activity has been approved by the Commission. Region did not communicate numbers in this regard and was not aware of the extent to which this activity was approached by Atlanta management. While Region continues to support this activity in the Atlanta Office, it is clear that the establishment of production standards in this area, the absence of supervisory knowledge of developmental methodology, and the failure of management to clarify perceived instructions, served to "taint" an otherwise optimistic undertaking. . .at least from the supervisory and employee point of view.

5. At the direction of top management, specific GPAD and Merit Pay standards, which were employee and supervisory agreements during the rating period, were rendered "not applicable" at the end of the rating cycle. The review revealed that the Director was personally involved in making these standards not applicable, apparently because of the lack of specific documentation that the employees had completed work related to the standards. Further, there is some indication that some GPAD employees' ratings were raised upon the specific direction of top management. While there is no prohibition against managerial involvement in the rating process at the lowest level, removal of standards at the end of the cycle and assigning attainment levels on performance which is not related to identified standards, clearly defeat the principles and intent upon which the appraisal systems are based.

6. Some bargaining unit employees have been moved from their assigned program units and are completing unclassified duties. While management insists that the duties that are being performed are reflected in the employees' general position description, it is clear that their duties are associated with the voluntary assistance and expanded presence programs. This decision is premature since the Agency does not intend to utilize bargaining unit employees in the voluntary assistance program and since the impact of their utilization in expanded presence has not been negotiated with the National Council of Locals. Both of these programs are closely tied to the field reorganization and lend credence to the employee allegation that management has begun implementation of field reorganization.

7. The managerial "style" of the District Director, coupled with the historically questionable skills of the Deputy and other members of middle management, have caused employees and supervisors to question the Director's motives in all areas of activity surrounding office operations. The Director's personal oversight of employee work habits, his locking of stairwells, his reassignment of some employees, and his unannounced environmental review of individual work areas, appear to be reasonably based. However, the lack of communication in areas of general interest of employees, the lack of full staff meetings where reasons for office changes were explained, the dependence upon the Deputy to "carry the message," and the "distance" between the Director and staff (below the Deputy and Regional Attorney), left the Director no avenue to maintain a harmonious working relationship with staff and exacerbated employee concern for actions they found unacceptable. The fact that the Director stated that he was not aware of employee unrest in the Atlanta Office highlights the accuracy of this conclusion.

Recommendation

Historically, the Atlanta Office has not performed as well as other Districts in the Commission. Previous Directors, who have tried to exact a higher level of performance and conduct from the Atlanta staff, have encountered similar kinds of group responses, i.e., petitions, group and individual grievances, clandestine contacts with headquarters acquaintances, and lack of production. Region I made the new Director aware of these historical perspectives prior to his arrival in Atlanta on June 6, 1983. He was also alerted to the "softness" of middle management, especially their failure to demonstrate sound managerial skills and apparent inability to place the mission and focus of the Agency above their own personal interests. It is noted that the Deputy and both Compliance Managers have been "Acting" Directors of EEOC field offices and two (Beasley and McPherson) aspired to the Atlanta Directorship to which Betty Adams was appointed in 1979.

With the information amassed and this background, Region I staff makes the following recommendations:

A. That Region I counsel the District Director and direct corrective action regarding all activities found deficient during this review.

B. That Region I monitor closely all activities in the Atlanta District Office for the next six months and take further corrective action, if the communicated directions are not followed.

These recommendations are based on the realization that the District Director has had an exemplary performance record as a manager in the Agency and should be given the opportunity to apply those skills, on which the record is based, to the Atlanta Office. This, of course, means some alteration in his management style, which Region believes it can foster. Further, we do not believe it to be good management to set a precedent by reassigning a Director as the direct result of employee discontent and overt request. Rather, the decision to take action should be initiated by management, after the manager has had sufficient opportunity to succeed and has failed.

C. That the Deputy Director and both Compliance Managers be reassigned to other EEOC offices and given the opportunity to perform, with strict accountability, under different management.
This recommendation is based on Region's belief that neither Compliance Manager will perform adequately in the Atlanta District, since they have both personalized the instant situation. While District management has resolved their individual grievances, their demeanor during the interview suggests that they will not let the matter drop and will not fully cooperate with the current Director. Both firmly believe that the District Director will take every action possible to "get rid" of them and both indicate their intention to fight back. Their belief that nothing short of the District Director's removal or transfer from the Atlanta Office would solve the current situation was made clear during the interview process. Should these managers remain in the Atlanta Office, Region envisions continuation of the present accusations, fears, and record building. . .at the expense of mission accomplishment. Region believes because of these managers' long experience with the Agency and their compliance background, each could perform adequately in an area where they have not personalized managerial conflict.

Closures Other Than No Cause

1.	041 83 0041	OK
2.	041 83 2108	Settlement not clear in that it is not related to the charge.
3.	041 83 1968	Withdrawal, "I don't feel I was fairly represented."
4.	041 83 1856	OK
5.	041 83 2638	Nothing in file
6.	041 83 0224	OK
7.	041 83 1546	OK
8.	041 83 1780	OK
9.	041 83 2080	Closed "failed to proceed". Note in file "Received no response from CP till today 9-28-83." Case closed 9-30-83
10.	04 83 1498	OK
11.	041 83 0529	OK
12.	041 82 0933	OK
13.	041 83 1512	OK
14.	041 82 2195	OK
15.	041 83 1084	OK
16.	041 83 1728	OK
17.	041 83 0606	OK
18.	041 82 0027	Case did not have comparative data in original Inv. 706 investigation.
19.	041 83 1558	OK
20.	041 83 1784	OK
21.	041 83 2056	OK
22.	041 83 0153	OK
23.	041 83 1226	OK
24.	041 83 2329	154 not approved
25.	041 82 1406	OK
26.	041 83 2528	154 not approved
27.	TAT 4 1391	Time frame for failure to cooperate not met.
28.	TAT 4 0625	Time frame for failure to cooperate not met.
29.	TAT 6 0597	291 not approved
30.	041 83 1438	Time frame for failure to cooperate not met.
31.	041 83 0925	OK
32.	041 83 1774	OK
33.	041 83 1777	OK
34.	041 83 1182	291 not approved
35.	041 76 2754	Closed failure to cooperate although CP had written letter detailing events in chronological order.
36.	041 83 1004	Withdrawal on basis that "there has been no will to win demonstrated by parties."
37.	041 83 1285	OK

ADEA

1.	041 83 2138	Should have been processed beyond 7(d)
2.	041 83 2206	Intake problems
3.	041 83 2278	Should have been processed beyond 7(d)
4.	041 83 2315	OK
5.	041 83 1980	Intake problems
6.	041 83 2345	Intake problems
7.	041 83 2380	OK
8.	041 83 2412	Little comparative data
9.	041 83 2301	OK
10.	041 83 2441	OK
11.	041 83 0273	OK

EPA

1.	041 83 2013	Should not have been opened
2.	041 83 1936	Should not have been opened
3.	041 83 2000	Case closed on basis of R statement only
4.	041 83 1994	No comparative evidence
5.	041 83 2126	Incomplete investigation
6.	041 83 1931	Should not have been opened
7.	041 83 2352	Should not have been opened
8.	041 83 2350	Incomplete investigation
9.	041 83 2010	Should not have been opened
10.	041 83 2004	Should not have been opened
11.	041 83 2002	Unable to locate "R"
12.	041 83 2006	No evidence

No Cause Findings

	Charge No.	Comparative Data	No Cause Finding Premature
1.	041 83 2298	None	Yes
2.	041 83 1724	One	Yes
3.	041 83 1205	None	Yes
4.	041 83 2022	None	Yes
5.	041 83 1240	One	Yes
6.	041 83 1413	None	Yes
7.	041 83 1900	Yes	Yes
8.	041 83 0701	None	Yes
9.	041 83 2187	None	Yes
10.	041 83 2216	None	Yes
11.	041 83 0867	None	Yes
12.	041 83 1954	None	Yes
13.	041 83 1878	Yes *	Yes *
14.	041 83 1888	None	Yes
15.	041 83 1821	None	Yes
16.	041 83 1041	None	Yes
17.	041 83 2297	None	Yes
18.	041 83 1253	Yes	No
19.	041 83 1395	One	Yes *
20.	041 83 1024	No	Yes
21.	041 83 1087	Yes	No
22.	041 83 1264	Yes	No
23.	041 83 1938	Yes	No
24.	041 83 1877	Yes	No **
25.	041 82 1659	No	Yes ***
26.	041 83 0734	Self Defeating	No
27.	041 83 0733	No	Yes
28.	041 83 2191	No	Yes
29.	041 83 1247	Yes	No
30.	041 83 1160	No	Yes
31.	041 83 1961	Yes	No
32.	041 83 2250	No	Yes
33.	041 83 1844	Yes	No
34.	041 83 1918	No	Yes
35.	041 83 2963	Duplicate file no evidence	
36.	041 83 1650	No	Yes
37.	041 82 0027	No	Yes
38.	041 83 2308	Yes	No
39.	041 83 0712	Yes	No
40.	041 83 1430	Yes	No
41.	041 83 1489	Yes	No
42.	041 83 2121	Yes	No
43.	041 83 2117	Yes	No
44.	041 83 1502	Yes	No
45.	041 83 1031	Yes	No
46.	041 83 2324	No	Yes
47.	041 83 1022	Yes	No
48.	041 83 2130	No	Yes
49.	041 83 1498	Yes	No
50.	041 83 2344	No	Yes
51.	041 83 2166	Yes	No
52.	041 83 1332	No	Yes
53.	041 83 1507	No	Yes
54.	041 83 2099	Yes	No
55.	041 83 1946	No	No
56.	041 83 1011	No	Yes

\- 3 files not included, because 3 file numbers were not recorded by reviewers.

* Comparitive date (marginal) was submitted but it is not discussed in the investigators memo.

** Comparitive data was obtained but is not mentioned in the investigators memo.

*** Case log entry "This file is being closed based on the evidence in file and instructions given me by the Director and supervisor."

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

JAN 12 '84

MEMORANDUM

TO: Frank Jordan, Director
Atlanta District Office

FROM: Jim Troy, Director
Region I, Program Operations

SUBJ: Regional Review of the Atlanta District Office:
Findings and Required Corrective Action

As you are aware, Region I staff conducted an on-site review of recent managerial and charge processing actions in the Atlanta District Office on November 15-17, 1983. This review was directed by the Program and Regional Program Directors following their November 4 visit to the District and was based on numerous allegations of managerial misfeasance lodged by employees and compliance supervisors in separately signed petitions. The attached report discusses review methodology, information obtained during review, and Regional conclusions. Therefore, the purpose of this memorandum is to direct actions to be taken by District management that the Regional Director believes are necessary to the creation and maintenance of an occupational atmosphere that will enhance accomplishment of the District's mission.

The actions explained below should be taken immediately, unless otherwise noted, and follow the sequence as reflected in the Regional Conclusions section of the report.

1. Region I concluded from the review, that while the District Director's personal emphasis on increasing productivity had a positive impact on the number of charge resolutions completed during the 3rd and 4th quarters, it also resulted in serious shortcomings in the quality of charges resolved. The review revealed that 52% of the "no cause" charges closed were deficient in some manner, as discussed in the report. Additional investigative actions in many of these charges appear to be necessary.

Therefore, you are directed to immediately review each of the charges listed as deficient in the review report and to make individual determinations whether these charges should be reopened for further investigation. Management should also review a sample of the charges resolved by each unit (except Systemic), and make the same determinations. The sample should equate to at least 10% of the resolved and should not include those reviewed by Region. A detailed report of charge review and actions taken, by charge number and style, should be forwarded to Region by February 24, 1984. Management should initiate its own self audit procedures, with an identified review schedule, beginning March 1, 1984, to prevent recurrence of the situation identified by the report which led to this directed action.

2. The review revealed that an exorbitant number of Age and Equal Pay directed investigations was initiated during the 3rd and 4th quarters, largely without any prior reason to believe that respondents had violated either statute. Most of the age directeds were based on TEFRA, an area in which the Agency has not "finalized" its policy or guidelines. Finally, it was shown, during the review, that the two Equal Pay units initiated 37 directed investigations against the same respondent. While it is realized that this approach was designed to utilize excess staff, it clearly has skewed the Districts FY 83 "receipts to process" totals, has caused unrest among the supervisory and management staff, and did not follow Regional "warnings" against employing such methods to maintain current staffing.

You are hereby directed to (a) immediately close all age directeds that are based on TEFRA, unless there is a clear inference of violation, (b) review all EPA directeds and close those where there is no inference of violation, or which are duplicate charges, and, (c) clearly identify the number of charges in a and b in your year end report; subtracting this number from your FY 83 EEOC to process, closures, and pending workload totals.

3. The review revealed that despite managerial statements to the contrary, the Atlanta Office was reorganized. The addition of CIC/ELI, Age, and Equal Pay units and the reduction of the number of Fact Finding units below that required to process incoming charges, in effect, removed the CIC/Other unit as a viable entity to which charges would flow from Fact Finding. Such an organization does not comport with the current Mission and Function Statement for District Offices and reduces the level of emphasis previously placed on developed and processing ELI charges, since the units are required to process charges normally completed by Fact Finding. While the new organization places Atlanta in a better position to implement the ensuing reorganization and the "new" charage processing focus, it is clear that these organizational changes inferred implementation of reorganization principles prior to negotiation with the Union and/or Commission approval of the "new" charge processing focus.

You are directed to restore the Atlanta Office to an organizational structure that is in strict conformance with the current EEOC Order 110, Mission and Functions.

4. The review revealed that, at the direction of top management, specific GPAD and merit Pay standards, which were part of the employee and supervisory agreements during the rating period, were rendered not applicable at the end of the rating cycle. There is also some indication that several GPAD employees' ratings were raised upon the specific direction of top management.

The Merit Pay and GPAD guidelines do not provide for removing standards from agreements at the end of a rating period. Rather, both systems require modification of standards at the time they are no longer applicable. Further, the acceptable practice within the Agency is to accept the "mid-term" rating level as the performance rating in those standards that are not applicable at the end of the cycle.

You are directed to revise the rating in all standards rendered not applicable and ensure that the employee receives a rating in the standard that equates to the rating given at mid year. In the future, performance standards should be modified at the time they are determined "no longer applicable" and not at the end of the appraisal period.

5. The review revealed that several bargaining unit employees were moved from their assigned units and made part of the "management" team. These employees were completing duties associated with establishment of the Voluntary Assistance and Expanded Presence Programs. Clearly, the District utilization of bargaining unit employees in these programs is not in keeping with Agency plans for Voluntary Assistance and with the Collective Bargaining Agreement, since Expanded Presence has not been negotiated.

You are directed to reassign those employees to specialized program units. They should physically be located with the unit to which assigned and should only complete those duties normally associated with the unit to which assigned.

6. The review revealed direct contradiction in management's account of the directions and performance expectations communicated to the workforce, since June 1983, and the perceptions gleaned from these directions by the employees and supervisors. In addition, evidence that several changes in organizational structure, charge processing focus, and general office operations were completed, without "clear" explanation to employees of the reasons therefor and/or the results expected is overwhelming.

This serious communication gap has obviously widened the "ongoing" rift between top management and the compliance side of the office. Since it is imperative that management take immediate steps to create a more harmonious and participative atmosphere in Atlanta, the following actions are directed:

a. Immediate Establishment of Monthly Meetings of the Entire Atlanta Staff

These staff meetings should be conducted by the District Director and should not be designated as training sessions. Rather, the purpose here is to provide an open forum for Atlanta employees to ask questions and/or raise issues of employee interest and obtain responses from top management. Further, the District Director should provide clear explanations for current or expected managerial actions that may affect the workforce. These meetings should begin not later than January 23, 1984.

b. Increase the Managerial Attendance and Participation in TMC Sessions.

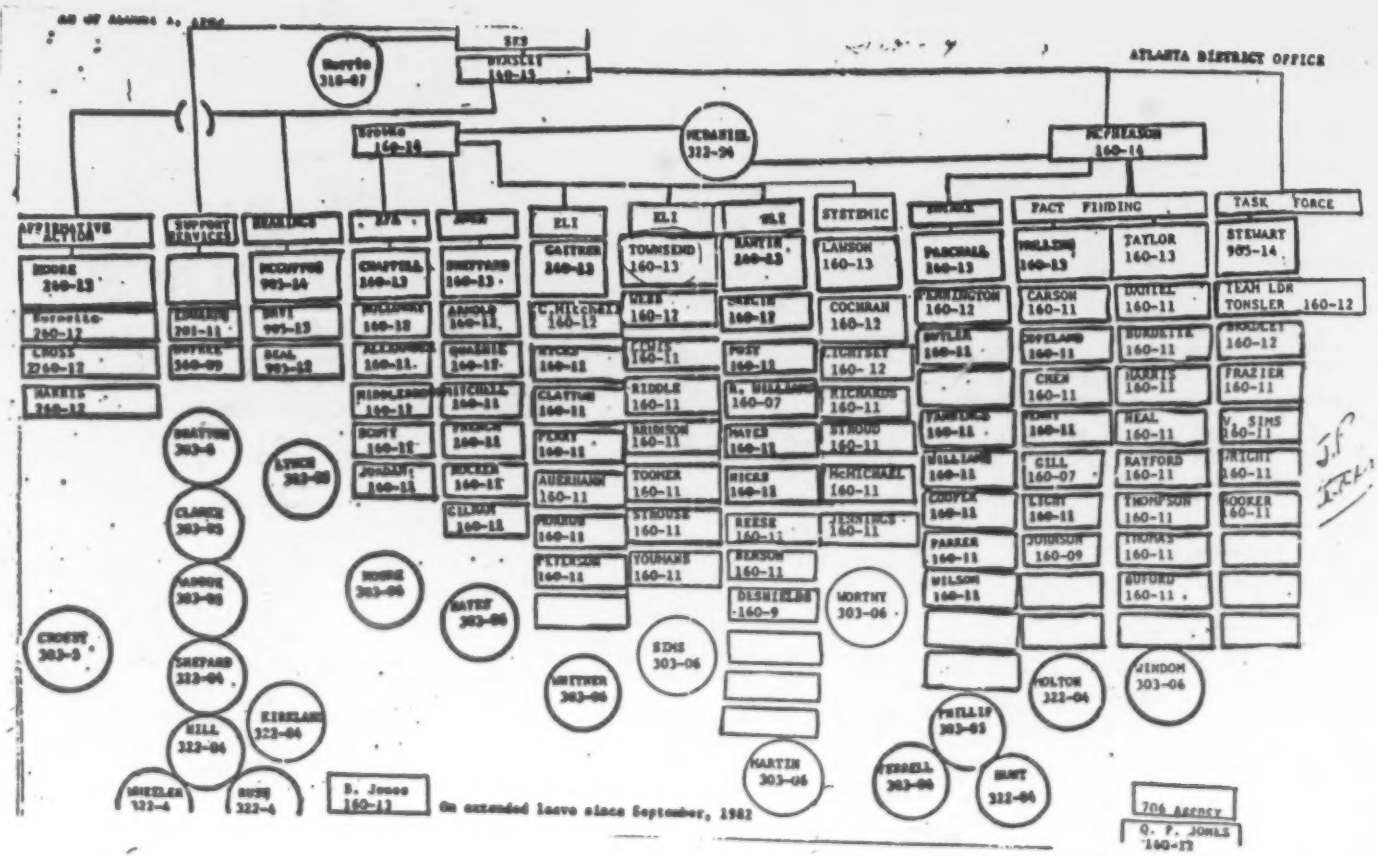
Both Compliance Managers and other employees, as deemed necessary or helpful, should be required to attend and participate in all TMC meetings, where matters that relate to their work is discussed. These managers and employees should be encouraged to provide suggestions and advice in the programmatic areas that are subject to TMC decisions during the meeting.

c. Increase the Accessibility of the District Director to the Workforce

It is imperative that the District Director make himself more accessible to the workforce to respond to individual concerns of employees, supervisors, managers, and union representatives. The common theme prevalent throughout the interview process was that the Director would not talk to or meet with the named groups, casually or otherwise. Clearly the review revealed that most messages to the workforce were delivered by the Deputy, who also responded to most queries that were sent up to the Director by members of the workforce. This employee perception, real or imagined, has exacerbated employee concerns about actions they found unacceptable. Region I believes that if the District Director fails to make himself accessible to his subordinates, he will be unable to restore the level of employee confidence in management required to accomplish office goals.

As stated above, these actions are to be initiated immediately. Region I will closely monitor all activities in the Atlanta Office for the next six months and will request written reports on your accomplishment of these actions on an intermittent basis.

If additional information or clarification is necessary, you may contact me at your convenience.


ATLANTA DISTRICT OFFICE
AFFIRMATIVE ACTION
SUPPORT SERVICES
INTAKE
ELI
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SYSTEMIC
FACT FINDING
TASK FORCE
TAYLOR 160-13
STEWART 905-14
TEAM LDR TONSLER 160-12
LAWSON 160-13
COCHRAN 160-12
TOWNSEND 160-13
MARTIN 160-13
PARCHMAN 160-13
HOLLOWAY 160-13
CARSON 160-11
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V. SIMS 160-11
WRIGHT 160-11
HOOKER 160-11
GILL 160-07
RAYFORD 160-11
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BUFORD 160-11
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WILLIAMS 160-11
PARKER 160-11
CROPPER 160-11
FARRINGTON 160-12
BUTLER 160-11
TAMPLIN 160-11
SIMS 303-06
MARTIN 303-06
WORTHY 303-06
WINDOM 303-06
HOLTON 322-04
PHILLIP 303-01
HUNT 322-04
FERRELL 303-06
B. Jones 160-13
On extended leave since September, 1982
706 AGENCY
Q. P. JONES 160-12

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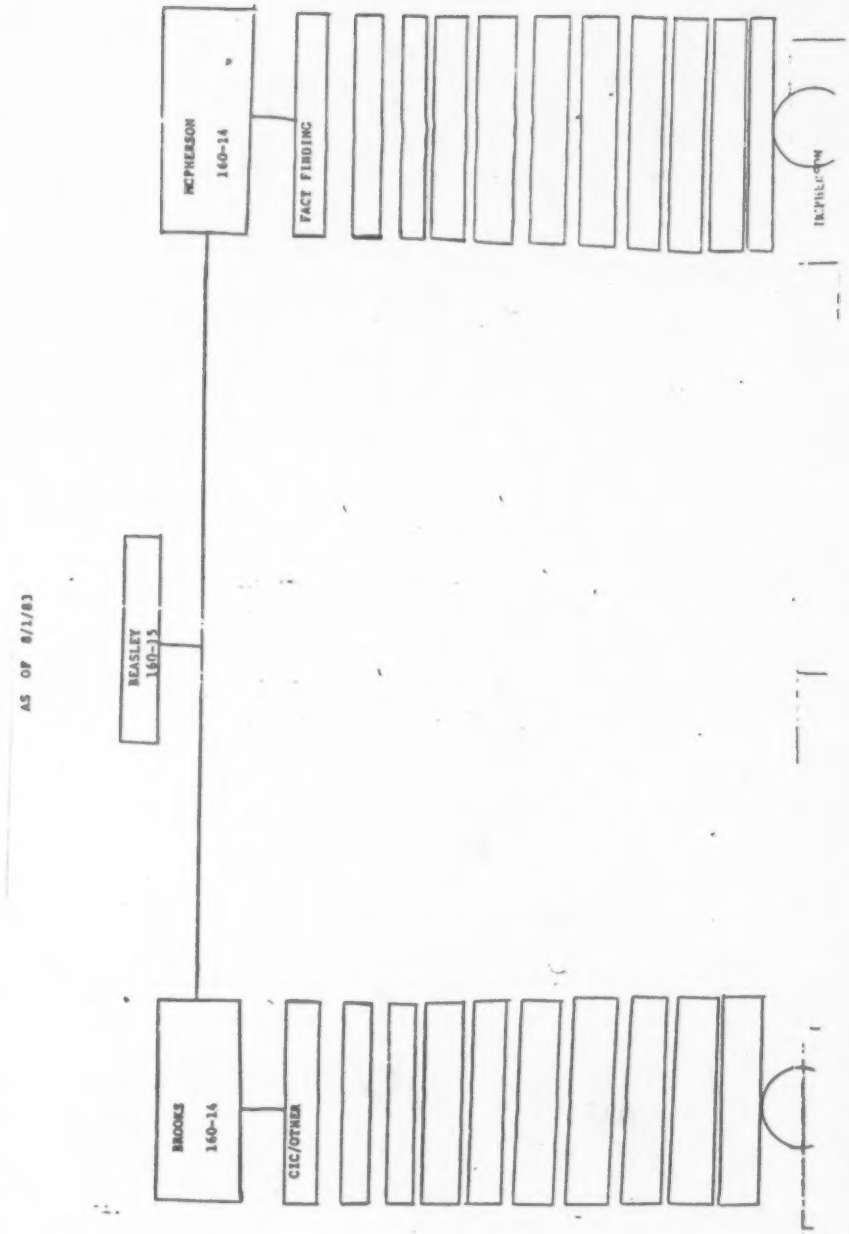
MCPHERSON
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FACT FIRING
BEASLEY
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BROOKS
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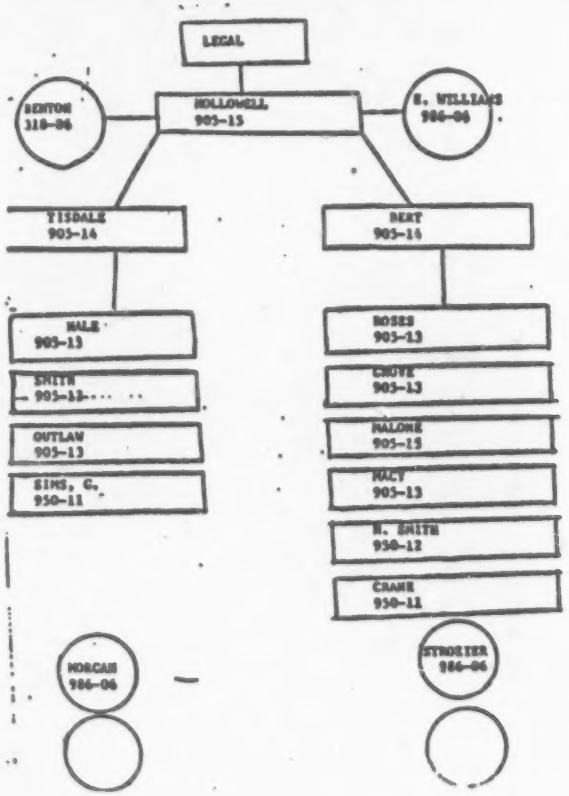
CIC/OTHER
AS OF 8/1/83

Atlanta District Office



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506
SEP 25 1984

MEMORANDUM

TO : Paul Aubrey, Acting Director
Computer Systems Management Division

: Steve Posniak, Computer Specialist
Computer Systems Management Division

FROM : Ronnie Blumenthal, Director
Special Services Staff

SUBJECT : Phase II of ADP Contract

As you know, EEOC and C.A.C.I. have begun Phase II of the Data Interface Project. In our meeting of September 13, 1984 it became clear that possible modifications might be needed in Phase II of the contract because of changes in the CSRS. Attached you will find the current workplan that the contractor has submitted for Phase II. I believe the following questions need to be answered so that we may make an informed decision with regard to the matter of contract modifications:

- o When will the decision be made on the type of hardware to be used in EEOC's CSRS (both main frame and field terminals)?
- o What timeframes are envisioned for CSRS?
- o Are the timeframes in the attached chart compatible with your plans? If not, please suggest specific modifications.

Thanks very much.

Attachment.

cc: John Seal
Management Director

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FY '85 PHASE II ACTIVITIES

		BEGIN	END
1.	Hardware Option Recommendation	9-21-84	10-5-84
2.	Detailed System Design	9-21-84	11-30-84*
3.	Develop User's Manual	9-21-84	11-9-84
4.	Acquire Hardware/Software for Pilot	10-12-84	11-16-84**
5.	Project Schedule and Milestone Charts	11-23-84	12-7-84*
6.	Software Development	11-23-84	5-24-84*
7.	Develop Integration Test Plan	4-5-85	4-26-85
8.	Acceptance Test Plan	4-12-85	5-3-85
9.	Develop User Training	5-3-85	7-26-85
10.	Pre-Test Pilot System	5-17-85	8-9-85*
11.	Integration Test	7-5-85	7-26-85
12.	Acceptance Test	7-5-85	7-26-85
13.	Hardware Procurement	8-2-85	8-16-85***
14.	User Training	8-2-85	12-13-85
15.	Hardware Installation	8-9-85	12-20-85
16.	Installation Technical Assistance	8-9-85	8-1-86

* Represents a possible 1-2 week delay for EEOC to approve Detail Design

** Represents a possible 1-2 week delay in procurement of pilot hardware

*** Represents a possible 1-2 week delay in procurement of installation hardware

NOTE: All task completion dates are based on EEOC giving CACI approval to start tasks on the dates indicated.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

MEMORANDUM October 11, 1984

TO : Donald Muse, Director
Seattle District Office

FROM : James Troy, Program Director

SUBJECT: Guidance for CSRS User Requirements Task Group

The User Requirements Task Group will be meeting as the first stage of the revamping of the CSRS. Since this group will, in effect, determine the kinds of information to be gathered and tracked, I believe a number of issues will need to be addressed. These are set forth below.

1) Ensuring that all the "users" are represented or at least surveyed—

Field managers and supervisors will be primary users; however, input from all Headquarters offices is important since many of the requests for information requiring manual counts of charges come from these offices. Of course, input from the Regional Program Directors is also crucial.

2) State and Local Agency ADP Systems Development—

At the same time that we are revamping CSRS, the contract for the 706 agencies automation is in progress. Coordination with C.A.C.I. and T.A.R.P. (consultants) will be essential because changes in our systems will impact. Hollis Larkin is the OPO contract monitor for this project.

3) Impact of Task Group Work on Current EEOC Orders—

Information needs established by the task group will have to be played out in respect to impact on the Compliance Manual, Order 244, and other documents. For example, what forms will need to be changed, deleted, or established? Form 155 will have to be modified if new items are added or deleted. Others may also be affected. Changes are now in process involving the Compliance Manual. Decisions by the task group should be coordinated with Special Services.

4) Task Group Objectives —

The User Requirements statement is one piece of the overall ADP re-design. The Office of Management has issued a paper on ADP architecture which should be reviewed. This paper describes the hardware changes in process: the installation of the IBM XTs and PCs, the remote facility arrangements for the mainframe, etc. Since field offices will have control of their own case tracking systems, the perspective of the task group should keep this fact in mind. Whereas previous efforts to change CSRS have always focused on what data could be cut or deleted, the present task group can proceed free of this concern and focus on what information management actually needs to run the office.

As head of the task group, you will be setting your own schedule in accordance with the overall timetable of the CSRS. It is my understanding that the user requirement's statement is due no later than February 1, 1985 and desired earlier if possible. I would suggest that early in the process the task group review all current reports generated by CSRS, and for that matter, all reports relying on charge-related statistical data.

UNITED STATES GOVERNMENT

Memorandum

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
SEATTLE DISTRICT OFFICE

TO : James Troy, Director
Region I Programs

DATE: October 12, 1984

In reply refer to:

FROM : Donald W. Muse, Director
Seattle District Office

SUBJECT: Changes to the CSRS System

I am glad that we have finally come to the point of making real and drastic changes to the present CSRS System. As we agreed, the system, as it now stands, is practically worthless, extremely cumbersome and quite costly in that it demands extensive use of human resources to operate.

I envision a new system with two dramatic and indispensable changes; the new system must be compatible within its own components and it must make data available to its users immediately on request. Let me discuss these changes in more detail.

1. Compatibility

The new system must have components (hardware, software, programs, coding and vocabulary) that are fully compatible with each other. The terminals located in the 706 agencies must be compatible with those located in the District Offices and those in Headquarters' offices. That is, personnel in the 706 agencies must be able to enter data (charge information and coding) into the same data base as the District Offices and Headquarters offices. The District Offices must be able to enter data into that same data base and have it available to the 706 agencies and Headquarters.

A. Most Likely Possibility

That the terminals at the 706 agencies, and the PCRs at the District Office level and those at Headquarters be inter-connected to allow entries into the data base on simultaneous basis.

B. Reasons

One of the most exasperating aspects of the present system is that 706 agencies enter data into their own computers and then send us copies of charges from which we have to prepare coding sheets and enter that same data into our data base. This is a ludicrous duplication of effort that costs the Commission at least one full time position in each District Office.

C. Projected Results

The most significant result of making the system compatible will be a great deal of savings in the number of people required to run the system. In 1981, we in the Seattle office, made a survey of clerical and professional time spent in processing the 706 data. We concluded that the Commission could save approximately 34.2 full clerical positions if we had a compatible computer system. In relation to costs, it must be realized that an initial outlay of funds to purchase computer equipment may seem a great expenditure, but if one goes further to compare that initial cost to the long range savings in terms of personnel positions and time, one would have to conclude that the initial investment is well worth it. A survey completed in FY 76 of a much less complicated CSRS system than now exists indicated over 10% of the total agency personnel was devoted to CSRS record keeping. This equates to fourteen million dollars annually. (16M less 20M 706 Agency money, 90%

of remaining 126M salary money - 14M). A second result would be an improvement on the accuracy of the data base. Obviously, the fewer times data is handled the more accurate it is.

D. Necessary Tasks

1. Determine what kind of equipment is needed to accomplish the desired change.
2. Obtain the equipment and install it.
3. Review and change the coding system in order to: make it useable both to EEOC and the 706 agencies, eliminate as many useless codes as possible, and correct deficiencies that we know are present in the system.
4. Prepare users guides and operating instructions with 706 personnel input.
5. Test the system in at least three District Offices with their respective 706 agencies and at least two Headquarters' offices.

II. Data Availability

A. The Most Likely Possibility

That personnel at the District Office level should be able to view and to print on the PCRs, a variety of print-outs with specific programs. Of course, each District or Area Office would have access only to its own data and the data entered by the 706 agencies within its jurisdiction. Offices in Headquarters would have access to data nationwide and would use the programs in which they have particular interest. The 706 agencies would have access to their own data and the data entered into the system by the District Office in their jurisdiction.

B. Reasons

The worst failing of the present system is that although we, in the field office, spend an inordinate amount of time and resources entering data into the computer, we cannot get it back unless Headquarters retrieves it for us. Further, the number of programs now available is so limited that we are constantly going through our manual records to provide information to Headquarters which should be available to them through the computer system. There are many examples of this awkward way of doing things.

C. Projected Results

The most dramatic result of this change would be the tremendous savings in terms of man hours that we now have to dedicate exchanging papers back and forth from the District Offices to the 706 agencies and from Headquarters' Offices to and from the District Offices. Our calculations in 1981, when we first looked at this problem, was that we could save at least 1½ full time positions in each District Office which we must now dedicate to maintaining manual records to back up our computerized records to answer the usual requests from Headquarters' offices. Data to be available immediately upon request and time delays would be practically eliminated. Obviously, access and program availability would also be tailored to the user's needs. Again, we must keep in mind that an initial outlay of funds would result in dramatic savings in terms of salaries paid to people. At this time, I

am not sure how many people work in Headquarters in the computer section and how much time they have to dedicate to reply to special requests from the other Headquarters' Offices or from the field offices, but my guess is that it is a very significant amount of time.

D. Necessary Tasks

1. Make a survey of users' needs. This survey must include the 706 agencies, Headquarters and field offices and must determine what programs are needed to meet the needs of each user.
2. Prepare user guides and instructions.
3. Design the proper format for print-outs to be obtained from the system.

General Tasks

Depending on management's perception of this project and on what the expectations are, we may need to do the following:

A. Make a survey of offices and 706 agencies to determine what resources could be saved by making the changes to the system.
B. Prepare a schedule of datelines for accomplishment of the different tasks.
C. Designate persons in Headquarters to give administrative support to the people involved in the project. Establish travel funds, designate participants on the project and provide clerical support.

This entire project must be done on a cost comparison basis to justify the changes.

Serious consideration must be given to make this a Quality Assurance Circle Program (The Deming System).

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

OCT 31 1984

MEMORANDUM

TO : Donald Muse, Director
CSRS Redesign Work Group

FROM : John Seal
Management Director

SUBJECT : CSRS Redesign Objectives, Guidelines and Procedures

I wish to again express my appreciation for your willingness to take on this assignment, which is critical to the Commission's future success in the redesign of the Complaints Statistical Reporting System. I believe that it will be beneficial at the outset to state in detail what our objectives are for your work group, as well as the guidelines and procedures within which you will be working.

Our fundamental objective is to redesign and reshape CSRS to reflect the current needs of the system's users and EEOC management, while at the same time implementing the new design in an environment consistent with EEOC's ADP Architecture plan. One of the Chairman's Goals is to complete the entire project by the end of the FY 1985. We have already determined that achieving this goal requires our completion of a number sub-tasks well in advance of that date. Attachment 1 summarizes our preliminary task plan. The objectives of CSRS Redesign User Work Group fit into the task plan as follows:

- We must complete the entire structured requirements document by March 15, 1985.
- To allow time for adequate review and revision, a formal draft on this document must be completed by February 1, 1985.
- The Data Base Requirements (and possibly the Output Requirements) portion of this document must be completed by December 15, 1984 as should all design requirements impacting the new 706 interface.
- The work group must provide advice and consultation as well as testing support and assistance to the system implementers during the period March 15, 1985 to October 1, 1985.
- We shall also call on your assistance in post-implementation audit and evaluation during the period October 1, 1985 to April 1, 1986.

We have made arrangements for staff support to assist the work group in accomplishing these objectives. We shall be providing details about this support during the first week of your meetings.

Another area for which we shall be supplying you with detailed briefings at the outset is the ADP Architecture framework and parameters for the Redesign. Attachment 2 is a context diagram which shows the basic concepts. Among the significant features are:

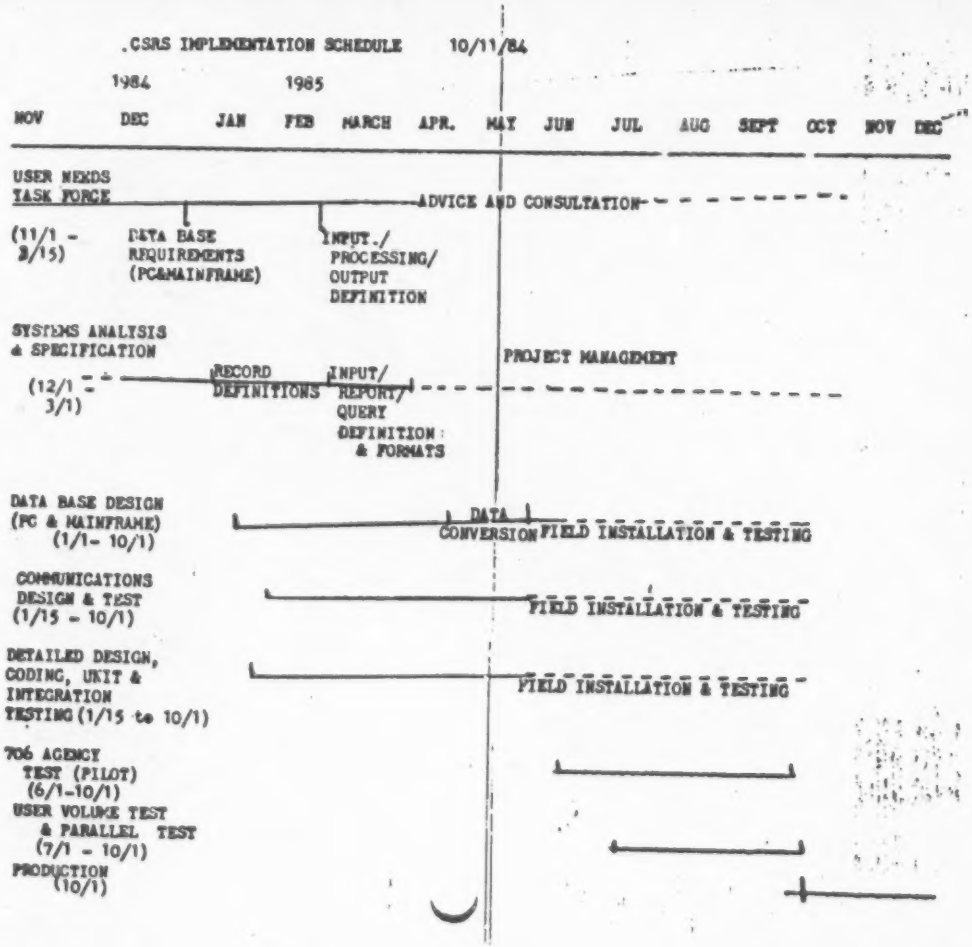
- Merging of District and 706 Agency case tracking systems with a central data base;
- Transaction driven updates of the central data base from the case tracking systems via a Transaction Manager;
- Maximum use of the tracking systems for query purposes with some controlled use of the central data base via dial-up teleprocessing while eliminating the current use of dedicated long distance lines.

Within the above basic framework, the CSRS Redesign User Work Group will have broad latitude and authority to recommend extensive changes, revisions, and rewrites to the current CSRS baseline system (including user procedures, input requirements, data base contents, processing logic and output requirements). There are a number of critical substantive issues which must be dealt with. I have included some illustrative (but certainly not all-inclusive) examples as Attachment 3.

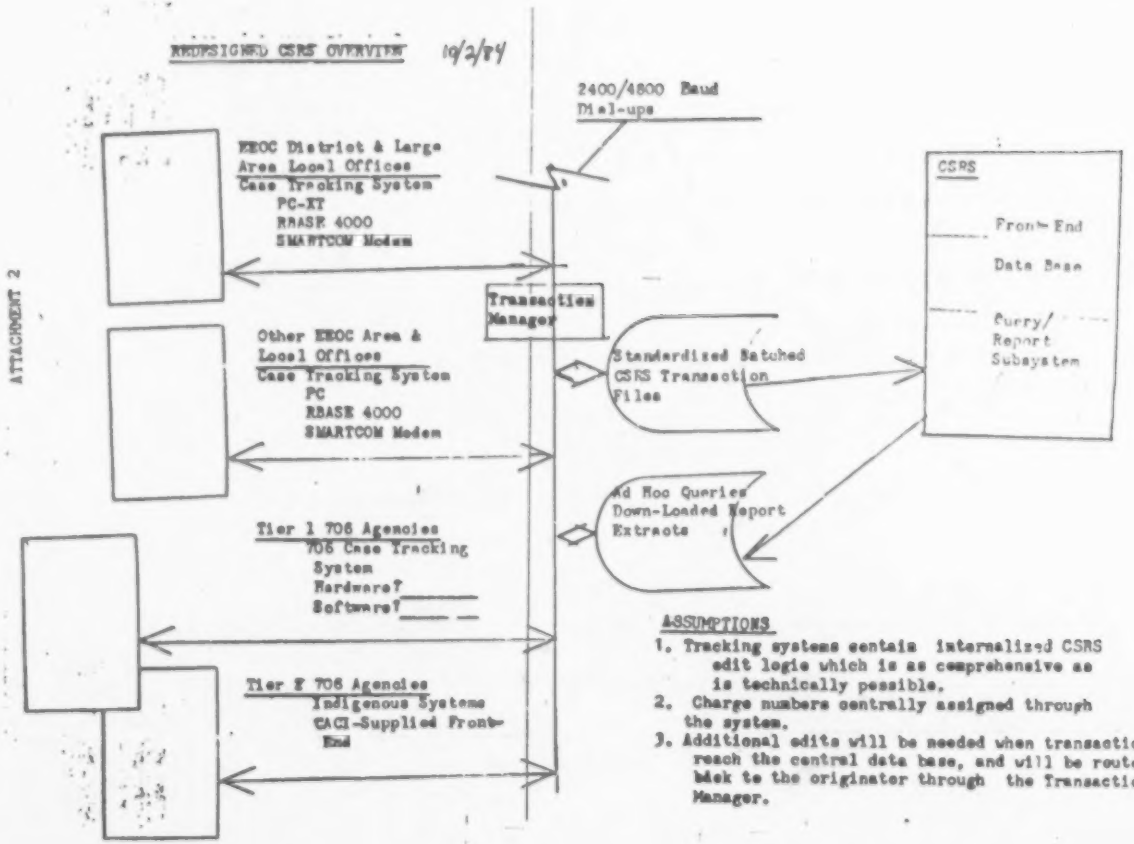
I look forward to meeting with you and the members of the Work Group to discuss all of the above matters with you and with the staffs of OM and OPO.

Attachments
cc: James Troy
Ronnie Blumenthal

ATTACHMENT 1



ATTACHMENT 2



ASSUMPTIONS

1. Tracking systems contain internalized CSRS edit logic which is as comprehensive as is technically possible.
2. Charge numbers centrally assigned through the system.
3. Additional edits will be needed when transactions reach the central data base, and will be routed back to the originator through the Transaction Manager.

ATTACHMENT 3

Illustrative Examples of Substantive Redesign Problems to be Addressed

a. Redesign of Form 155:

1. Change identification of statute(s) to a 4 position code.
2. Add identification of Charging Party's race/national origin.
3. Changes to Basis and Issue Codes.
4. Add source code (eliminate separate Form 15).
5. Add Type of Filing.
6. Add Initial Transfer from Intake.

b. Overhaul action code structure:

1. Eliminate separate forms for different units/functions.
2. Cease using Form Number as part of the action code structure.
3. Let each digit of action code have a separate meaning.

c. Develop new transaction and reporting structure to accommodate electronic interface with 706 agencies.*

d. Reassess existing data base and determine new data element requirements.*

e. Reassess existing reports and plan new query/report requirements.**

f. Reassess existing security scheme and procedures.

g. Determine additional edit/data integrity requirements.

h. Analyze problems with Respondent file and suggest a solution

* Needed by December 15, 1984.
** May be prerequisite to "d" - data base requirements.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

NOV 7 1984

MEMORANDUM

TO : Donald Muse, Director
Seattle District Office

FROM : John Seal, Management Director
James Troy, Program Director

SUBJECT : CSRS Redesign Work Group

As we move into the first phase of the overhaul of the CSRS, we thought it would be useful to review some of the ideas which have been raised and to firm up the directions we intend to pursue. Your memo of October 12 has raised a number of good points. Some of these are already in process and will be a part of the architectural changes which have been proposed by the Office of Management, especially the concept of systems compatibility, field office query abilities, and improvements in data accuracy. Integration of the State and Local ADP systems is a current agenda which is being worked out with both the Office of Program Operations and Management.

As you convene the CSRS Redesign Work Group it will be important to keep the following points in mind as our objectives for the Group to accomplish:

1) Review current program data collection (automated and non-automated), noting any duplication, problems in collection, and amount of usage;

2) Identify and interview all the users of CSRS information;

3) Determine user needs and recommend essential as distinguished from desirable or low priority requests;

4) Circulate recommendations among appropriate offices for input and comment; and

5) Develop final user specifications.

Once the above is completed, your package will then be forwarded to AMS for the proper coding and subsequent programming. Of course any suggestions which you have in respect to coding changes or other areas should also be included in the Group's findings.

We understand that during the first few days of the Work Group that extensive briefings will be conducted in regard to current architecture plans, status of the State and Local ADP, as well as other matters of interest. These will be important since, as always, we will be working within certain constraints: budget, staffing, and decisions already made in regard to equipment and architecture systems.

Both of us will plan to meet with you and the Work Group on a frequent basis as progress in your review is made.

CHARGE DATA SYSTEM

1. BACKGROUND

The Commission is well aware of the limitations inherent in the current Complaint Statistical Reporting System (CSRS). In an effort to upgrade the quality, availability, and timeliness of charge information, and to provide field managers with the ability to manage their own charge information, the Commission is attempting to implement a newer, more state of the art system.

The Commission views the new Charge Data System (CDS) not as a one-time implementation of a static system, but rather the movement toward on-going improvements in computer capabilities and a system which can grow as needs arise and funds become available.

The Charge Data System is designed to replace the automated and manual systems which now record data on charge processing and provide statistical reports on workload. The purpose of the Charge Data System is to obtain accurate and timely data utilizing an entry mode which will capture the data locally; which is edited at the source and then collected centrally; and which can be accessed and queried by users. The CDS will operate in each of EEOC's field (22 district, 17 area and 9 local) and headquarters offices and will interface with the PEP automated system.

2. SYSTEM GOALS

The CDS has been designed to allow for more efficient entry and retrieval of data. The immediate goals of the system are to:

a. Provide an easier data entry system that minimizes the requirement to use codes.

b. Provide an inquiry and report capability at both field and headquarters offices to cut back the need for manual research and telecommunication on routine inquiries.

c. Provide direct access to the National Database for headquarters offices, reducing reliance on Computer Services Management Division and field offices for provision of routine information.

d. Provide case tracking capabilities in field offices to improve caseload management.

e. Provide the capability for headquarters offices to develop internal case tracking systems (e.g., Guidance Division of the Office of Legal Counsel will be able to track processing of charges within their office).

f. Replace the outdated IBM System 3 hardware and software at headquarters with software and hardware operated by an off-site data center.

g. Provide microcomputers and software for data entry which are designed to create and maintain a local data base, and to transmit required data to the National Database.

h. Provide a system for records disposition.

i. Eliminate the need for expensive direct long lines, thereby keeping costs for communications more manageable.

3. PROCEDURES

a. Intake - When the charge is being taken from a party who is in the office, the Intake EOS will initially complete only the EEOC Form 5, Charge of Discrimination. The EOS will complete Intake Screens I-102, Charge Profile, and Intake Screen I-103, Basis and Issues Input and forward the entire package to the Intake supervisor. When the supervisor has reviewed the information, and the charge has been typed, the charging party will sign the charge. The charge and the screens will then be sent to the computer operator who will enter the data.

Only when the charge is to be docketed without being put on a Form 5 (e.g., it is a confidential complaint which will be taken on an EEOC Form 133-A, Confidential Affidavit) will the Intake EOS complete Intake Screen I-101, Charge Data, which contains all of the information from the Form 5, and it will be sent with the other two intake screens to the computer operator. In any case, the charge information is to be written only once by the Intake EOS, either on the Form 5 or on the first intake screen.

If the information for any reason does not become a charge, the potential charging party's name, the date of inquiry and the initials of the Intake EOS may be entered into an inquiry file which will be maintained in the computer.

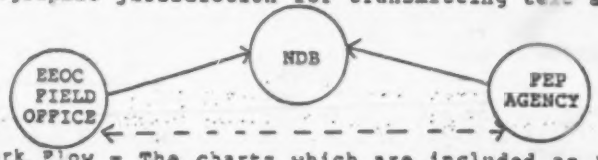
The Intake Screens will also take the place of the EEOC Form 155 when mail is analyzed and the screens will be sent to the computer operator with the charge when it is docketed.

b. Investigation - As actions are taken during charge processing, the appropriate screens (see Input Screens in Appendix C) are filled in and forwarded to the computer operator who will make the computer entries.

c. Case Tracking - Input Screen I110 provides the field office with the capability of maintaining an automated case tracking system. The use of this system is strongly recommended, but is not mandatory. Use of this system enables office management to keep a complete history of staff assigned to a particular charge as well as charges assigned to a particular EOS. It also tracks timeframes met, number of witnesses interviewed and key milestones of charge processing.

4. DATA FLOW AND WORK FLOW

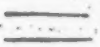
a. Data Flow - EEOC field offices and FEP agencies will enter data into their own local systems. This data will then be transmitted to the National Database. Both the EEOC and the FEP agencies will be able to query the National Database. (See section 12., Security, for a more detailed explanation.) In addition, there will be a system (electronic eventually) installed between the EEOC field office and the FEPA offices in its geographic jurisdiction for transmitting text and charge data.



b. Work Flow - The charts which are included as Exhibit 1 following this narrative illustrate the proposed workflow scenario. They are based on the Yourdan structured analysis technique. All functions of the new system are broken down into lower level activities. Through the use of the Yourdan technique, information on inputs to and outputs from these various logical activities, data sources (i.e., origins of or end points of data flow) and data storage locations can be presented to enhance the reader's understanding of the proposed system. The following symbols are used to represent key data flow elements:

Black lined arrows represent information in motion.

Bubbles represent a logical set of activities or actions taken in the course of a data flow. They can equally reflect manual, automated or a combined set of processing functions.



Data stores represent a logical repository of data in paper or machine readable form. They can also represent a filing cabinet or a computer's disk storage. They are used to show where data are stored, updated and retrieved.

Rectangles or squares represent data sources or end points which are external to the immediate data flow, contribute data or receive data as part of the data path.

5. SUMMARY OF IMPROVEMENTS

Major improvements over the current system include:

a. Automated Docketing and Assignment of Charge Numbers - One feature of the new system is the automated assignment of charge numbers in sequence from a block of numbers provided and programmed by local office personnel. FEP agencies will be provided with their own block of EEOC numbers which will identify the agency which took the charge and which will generally be entered directly into the National Database by the FEP agency.

b. Local Access to and Control Over Data - Unlike the current system, the office which is responsible for inputting data also can easily access, edit, modify or correct (including deletion of duplicate or incorrect entries) the data for which it is responsible.

c. Easier English Language Data Entry - Through the use of data entry screens and English language commands, the entry of data can be accomplished more quickly and more easily without the need for the operators to know hundreds of codes. Operators can be more easily trained and can achieve a fully operational level more quickly with the new system.

d. Local Generation of Reports Formerly Done Manually or Produced Centrally - The system makes possible the automated generation of reports on a local level that under the former system either had to be produced manually or, if system generated, were produced in Washington and mailed to the field for verification and reconciliation.

NOTE: While all of the reports and queries listed in Appendix C will be available as soon after the system is implemented as possible, only the queries by charge number, charge action history, charging party name, and respondent name and the operating statistics, bottom line indicators and legal reports attached as Appendix E will be operational from the start up date.

e. Increased Accuracy of Data and Reports - Because the office responsible for entering the data can generate reports on-site, review such reports, and make corrections to the data, the new system will achieve far greater accuracy than was possible under the old system without the need for the laborious process of manually reconciling various system generated reports.

f. Increased Timeliness of Data and Reports - For the same reasons that the new system will improve accuracy it will also increase the timeliness and currency of data and reports as report generation will be much quicker.

g. Local Case Tracking Ability - The new system provides for case tracking and workload management systems without the necessity for multiple entries of data. Further, in addition to pre-formatted and required reports, local ad hoc reports can be defined and generated by local office personnel without computer programming expertise.

6. SUMMARY OF IMPACTS

a. Equipment - The current hardware being used by field offices to enter information into the CSRS, IBM 3275s, will no longer be used for data entry. The IBM System 3 in Headquarters Computer Services Management Division will not be used for the CDS. Some headquarters offices will use IBM PC-XTs to communicate with the mainframe computer. Field offices will have a mixture of IBM PC-XTs and multi-user UNIX based hardware.

b. Software - Existing applications and support software will be replaced by RAMIS II for the National Database and FILEPRO for the field office case tracking systems.

J. Muse
(FYI)

MEMORANDUM

NOV 14 1984

TO : John Seal
Management Director

FROM : Donald W. Muse
CSRS Redesign Group

SUBJECT : Mission of the CSRS Redesign Group

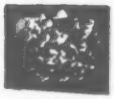
I need direction on the mission of the CSRS Redesign Group. Considerable attention has been given to point out that the CSRS group is not concerned with hardware/equipment/software. We are. It is impossible to divorce CSRS revision without addressing equipment. For an instance the absolute issue of the CSRS revision is quoted in your November 7, 1984 #1 "noting any duplication, problems in collection and amount of usage. These problems are only resolved by equipment. There are overwhelming problems in duplication, collection and usage that the CSRS group should be dealing with.

A decision has now been made to equip all District and Area Offices with PC XT's. Without any input from the CSRS Redesign Group. The extra money spent for XT's could be better spent for PC JR's to put the CSRS information into the computer on a timely non-duplicative non-wasteful basis.

The money necessary to implement the users' concerns is being spent without any input from the users.

I need directions on how to define the role of the CSRS group.

The users' problems of input into the computers will not be eliminated by the addition of PCXTs' to Area Offices. What good does it do to give the Field Offices the capacity to manipulate data on an XT when they are still inputting into the computer on a wasteful, duplicative collection system rated in the stone age?



MEMORANDUM

TO : John Seal
Management Director

12-11-1984

FROM : Don Huse, Director
CSRS Redesign Work Group

SUBJECT : Records Disposition (CSRS Tapes)

We previously discussed the fact that there are approximately 964,000 closed charge files retained in the current CSRS. If the records disposition schedules found in EEOC Order 201, Records Disposition Program, had been followed this would not have occured and we would not be maintaining 'dead wood' in the system. We therefore asked that the CSRS system be purged of all closed records eligible for disposition in accordance with EEOC Order 201; that a computer generated permanent record containing essential charge action history for each charge removed be created; and that all other electronic data and hard copy records be destroyed. The permanent record would be distributed to field offices in microfiche form. In the new system (DRMS) we are recommending that this be done on an annual basis.

What has not been discussed before is the disposition of CSRS tapes. The disposition of CSRS tapes is covered in EEOC Order 201, Item No. 12c(3)(b). Under these instructions, when the new permanent record is created during the purge of closed records, a tape of this permanent record should be sent to the National Archives. Therefore, the initial purge of the current CSRS and the annual purge of the new system will result in a permanent record in two forms:

1. Microfiche to be sent to the field offices, and
2. A master tape to be sent to the National Archives.

The DRMS will contain only open charges and closed charges which have not reached the disposition date specified in EEOC Order 201.

These procedures will not only clean-up the data base but will put us in compliance with the approved records disposition program.

cc: James Troy

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MEMORANDUM

DEC 14 1984

TO : John Seal
Management Director

FROM : Lawrence Bembry, Director
Administrative Management Services

SUBJECT : Bottom Line Indicators (BLIs)

Steve - copy to Lee Saunders
Steve possible
impact/history
12/14/84

RUSH

The effort to increase the accuracy of the printouts for bottom Line Indicators has had only limited success. Because of the complexity of the coding system used for CSRS under IBM System 3, certain types of data are not easily interpreted by the RAMIS II system. This situation leaves us with two problems: the inability to provide accurate printouts for reconciliation of BLIs and the necessity to exert further efforts to make our new data base management system (RAMIS II) fully reliable.

We now consider it prudent to abandon the reconciliation effort for FY 1984 BLIs. This means that OPO will have to rely on the manually prepared performance reports which have been submitted by the field offices. Mr. Troy was briefed on this situation on December 11 and indicated that he was prepared to proceed with SES reviews using the manual reports. However, he further indicated that, should the RAMIS system be capable of producing reliable printouts by January 15, he strongly desired to use those printouts to compare with the manual reports submitted by certain field offices.

With this in mind, we believe it is necessary to proceed with our efforts to make the output of the RAMIS II system reliable as quickly as possible. To do this, it is our intent to enlist the support of three district offices to help in identifying some of the inaccuracies in the printouts which have been produced. The printouts for Cleveland, Indianapolis and Seattle will be sent to those district offices this week with the request that they identify errors and return their reports to us within eight days. At the same time, we would like to have the team which has been called to conduct reconciliation review direct its efforts toward identifying problems in the BLI printouts also. In this way we expect to be able to assist the contractor in eliminating the problems which have been causing the errors.

We believe that these steps are essential to a successful conversion from the System 3 Database to the RAMIS II Database. It is clear that RAMIS will serve as an excellent system, making it possible for us to purge our data base for the larger CSRS effort, if funded later by FMS. This is evident because problems, once identified, are more easily corrected under RAMIS than under System 3.

We feel confident that the efforts we make now to clean up the system will assist us later on when we convert to the redesigned CSRS.

CONCUR ✓

NON-CONCUR _____

Instructions:

John Seal
Management Director

12/18/84
Date

cc: Polly Mead, Director
Organizational Performance Services

Be sure this is fully coordinated with CPO.

cc Jim Ivey

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
OFFICE OF MANAGEMENT

TO : Don Muse

FROM : John Seal
Management Director

DATE : 1/25

FOR:

___ AS REQUESTED ___ FYI

___ COMMENT ___ PREPARE REPLY

DATE DUE:

COMMENTS/NOTES:

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

DRAFT

MEMORANDUM

TO : Director
, District Office

4463

FROM : John Seal
Management Director

James Troy, Director
Office of Program Operations

SUBJECT : Purge of CSRS Data Base

As you know, the printouts which were recently sent to all field offices to be used for reconciliation of Bottom Line indicators were full of computer-generated errors. Our efforts to produce new printouts with greater validity have met with only limited success so far. We intend to continue efforts to clear up the computer system and we are asking for your assistance in doing this.

Attached are new printouts of the BLI 1 and 3 data for your office. These printouts are different from the first set of printouts you received for BLI 1 and 3 in that they contain far less errors as a result of programming changes which were made early this week. We would like you to review these printouts in detail in an effort to identify any other problems which may be caused by computer error. The results of your review should be returned to us by December 21.

The attached sheet contains instructions for conducting the review. Your report should be returned to Larry Bembry, Director, Administrative Management Services, Room 320. Any questions concerning the printouts or the review process should be directed to Steve Pasniak at 634-6353 or Leo Sanchez at 634-7660.

Your assistance in this endeavor is greatly appreciated and will do much to purge the computer system of the errors which have caused us all a great deal of frustration.

Attachment

BLI PRINTOUT REVIEW

The attached printouts for BLI 1 and 3 are to be reviewed for errors generated by the computer system. The easiest way we have found to conduct this review is outlined below. If you find a more efficient method, please let us know.

1. Compare the detail listing for BLI 1 to the Active Three-Way Locator dated September 30, 1984. Charge numbers which appear on the BLI 1 listing which do not appear on the Three-Way Locator are potential problems. Mark these charge numbers.

2. Using th System 3 data terminal in your office, call up the charges which were flagged in step 1 above, using Option 08. If the charge's current status is closed or transferred out of your control, make a copy of the terminal screen on your system printer.

3. Return the BLI 1 detail listing along with copies of the screens to us. Your comments, which may be hand-written on the copies of the screens or the printout, are welcome.

Review of the Bli 3 detail listing may be done in the same way, using the Inactive Three-Way Locator date June 30, 1984.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

January 10, 1985

MEMORANDUM

TO: John Seal
Management Director

James Troy, Director
Office of Program Operations

FROM: Donald W. Muse, Director
CSRS Redesign Work Group

SUBJECT: 706 Agency and EEOC Data Systems User Needs

Yesterday the entire CSRS Redesign Work Group met with representatives of CACI for a demonstration and discussion of a prototype system developed under EEOC contract for the EEOC/706 Agency Data Interface Project. We came away from the meeting convinced that the software and hardware packages recommended by CACI better meet the user needs of both the 706 agencies and the Commission than any other systems under consideration.

We base that conclusion on a number of factors, some of which are outlined in the document "CACI's Response to the EEOC Request for Additional Information on the Hardware Recommendation and Justification for the EEOC/706 Agency Data Interface Project", which we encourage you to read if you have not already done so. Briefly some of the convincing factors are:

HARDWARE

1. The Fortune 32:16 is a multi-user microcomputer system which:

   a. Can, without expensive additional hardware and software, pull into one unified system all the diverse microcomputer equipment, including equipment designed primarily for word processing such as the Lexitrons and IBM Displaywriters, an office or agency has. We have been told there is a strong possibility that even dumb terminals such as the 3275s currently in use in the field can be made to function as work stations. (We intend to determine whether or not this is feasible through a demonstration.) The 32:16 has ports for 13 stations or tie-ins. This would make it possible for agencies already with automated data systems to tie their existing equipment and systems to the Fortune UNIX system with little or no difficulty.

   b. Using the same data base, allows data input from one or more work stations and viewing or manipulation at other stations at the same time. This is superior to a series of stand-alone systems where data is transferred from one machine to another through use of communication modems but which ties up both machines during the transfer, leaving them unavailable for other work.

~~the~~ additional pages?

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507
January 14, 1985

MEMORANDUM

JAN 21 1985

To: John Seal, Director
Office of Management

From: Donald W. Muse, Director
CSRS Redesign Work Group

Subj: Independent Reporting Systems

At the present time there are five separate and independant reporting systems being developed for Headquarters offices. Public Sector Programs is developing a system for tracking Hearings and Federal charge processing, Special Services is having a system developed for tracking FEP Agency activities, a system for tracking Federal appeals is in the final stages of development for the Office of Review and Appeals and a separate tracking system is being developed for the Executive Secretariat. The fifth system is the redesign of the Commission's overall reporting system, currently the IBM System 3 based Complaint Statistical Reporting System (CSRS). The CSRS Work Group is not being kept informed on the independent systems which are being developed and has no control over them. This in spite of the fact that the system being developed for Special Services appears to duplicate much of the information which has been requested by other Headquarters offices for inclusion in the redesigned Commission reporting system.

The Work Group was assigned the responsibility for identifying what information was necessary from a reporting system to meet user needs. As one step toward accomplishing this, we sent a memo from you to all Headquarters office directors explaining our mission and asking for input in identifying specific data elements which were necessary to meet reporting needs. We followed up with interviews with representatives from each office. We have also given each field office an opportunity to comment on what must go in and what must come out of the reporting system. Thus we have made the initial step toward making a recommendation for a reporting system which will provide all of the information which is essential to meet the needs of the Commission both for its internal management and for information to be disseminated outside the Agency.

The development of any reporting system for any agency office must be coordinated with the CSRS Work Group. Having four separate systems being developed with no coordination defeats the objective for which the Work Group is responsible, that is, avoiding duplicative work, duplicative or unnecessary reporting requirements and the production of any reports other than those which have been recommended by the users to be essential to meet the Agency's goals and commitments. It is imperative that these systems be brought into the overall revised reporting system insofar as is possible and that at the least they be coordinated through the Work Group with the overall system.

We have now heard that a meeting was held recently on the use of electronic mail. The CSRS Redesign Group has been working on making electronic mail available to all field offices. Any proposal for the use of electronic mail by the agency should be coordinated with the Work Group.

cc: Jim Tr...

cc Jim Terry
Don Muse
Bill Olivieri

1/25/85

UNITED STATES GOVERNMENT

Memorandum

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
SEATTLE DISTRICT OFFICE

TO : James Troy, Director
Office of Program Operations

DATE: January 24, 1985

In reply refer to:

FROM : Donald W. Muse, Director
CSRS Redesign Work Group

SUBJECT: CSRS Redesign

As the work group is about to finish the planning phase of its work, there are a number of concerns which I wish to leave with you:

1. The agency's data reporting and tracking capacity would have been greatly enhanced had it purchased (instead of the IBM XT) multi-user micro-computers, such as the UNIX-based Fortune 32:16 which could have (without expensive additional hardware and software) pulled into one unified system for each office all its diverse micro-computer equipment, including equipment designed primarily for word processing, such as the Lexitron, Wang, Linolex and IBM Displaywriters and the 3275 IBM dumb terminals. To now purchase the XT's for the 706 agencies only compounds the limitations and drawbacks of the earlier decision.

2. There were U.S. government agencies which already had developed case tracking systems and were eager to share their experiences with us. Had these agencies been contacted prior to EEOC's purchasing hardware/software, we could have profited from their experiences and particularly their mistakes. We would have learned, for example, that HHS has developed a sophisticated main frame national litigation case tracking system, which they were willing to provide EEOC free of charge with the only provision being that we share any improvements made to the system. For its tracking system, HHS uses ADA Base software which resides on the HHS Parklawn computer facility and which would have been available to EEOC for its tracking system at no charge other than that charged by Parklawn for time on the computer. It may have been after further exploration, this may have been a less desirable alternative to purchasing Ramis or some other data management system, however, these experiences should have been part of a professional research of charge tracking systems available.

3. CACI has informed the work group that there is a main frame equivalent to Filepro 16 (the software which is the basis of the CACI system), which is available for approximately $10,000. Were we to go to an interim micro-computer tracking system designed by CACI using Filepro 16, loading onto a main frame with the Filepro equivalent would be a relatively easy task and would eliminate all of the developmental work and costs required to go from the present CSRS/System 3 set-up to a Ramis-based one. Once the conversion had been programmed for downloading all active data from the System 3 onto the micro-computers, no further major conversion would be required in going back onto a main frame.

4. The Computer Systems Management Division in the future could be greatly reduced in size of staff, if not eliminated altogether. As it is now, almost all the developmental work for new systems has been contracted to private organizations or consultants. The current line staff seems to be involved primarily in the maintenance of the CSRS system. Once the CSRS/System 3 is shut down and field and headquarters offices are able to generate their own reports, all that is needed at most is a small maintenance staff to (among other things) make changes in the software as we gain experience with the new system and it evolves to meet changing or new requirements. This small staff could also develop and produce regular periodic national aggregate or summary reports and special one-time reports for groups, such as congressional committees and the Civil Rights Commission.

   Salaries for the division (based upon the current and proposed staffing) approximate $600,000 per year. Significant budgetary savings could be realized by reducing the division to a systems maintenance group of four - five professionals and necessary clericals.

My concerns are that the purchase of the Ramis II software, the XT's and the R-Base 4000 software before the users requirements were known is an example of gross mismanagement. The intent of the purchase of these elements was to develop a new CSRS records system to meet the needs of the users. The purchase of the above hardware and software does not meet the needs of the users and was ill timed and ill conceived. The existence of the already purchased hardware and software expends all the money available for the purpose and prevents the implementation of a new CSRS system that meets the needs of the field users. To now provide a multi-purpose, multi-station CSRS second system for the users would re-

quire an additional purchase that would approximately duplicate the original purchase of Ramis II, XT's and R-Base software. Twice the cost to the agency to provide the service, even if money is available (and it has been repeatedly stated it is not).

The single purpose, single unit XT's will only do one thing at a time with one unit, whereas a unix-type multi-purpose, multi-station can be used simultaneously by many purposes on many units. What this means to the users is that the XT's will be used primarily to input the basic data into the computer, the XT being a single purpose, single unit cannot be used for anything else while this is being done. An estimated 80% of the time, the XT will be used to enter basic charge data. It cannot be used for charge tracking or data manipulation when the basic data is being entered. A multi-purpose, multi-station unix computer could be used for all the above functions at the same time on any of the already existing field computers or word processing equipment. P.C., IBM dumb terminals, Linolex, Systems 6, Wang, Lexitron all could be used simultaneously by a unix-type computer connection. Another point is that the approximately 60 IBM dumb terminals will have to be disposed of through survey as will the Linolex word processing computer. They are not compatible with the IBM XT.

The XT's cost approximately $6500 per unit. It is a single purpose single unit computer that will not link our already existing equipment, a multi-purpose, multi-station unix type computer that would link up all our existing equipment would cost approximately $7500. Not as many unix-type computers would be needed as the already purchased XT's.

It is now being proposed by the same EEOC people that bought the R-Base that the CACI 706 agency contractor's software be purchased and used instead of the R-Base, making the approximately $30,000 spent for R-Base unnecessary.

The CACI company contractors for the 706 agency redesign (funded by EEOC) developed their recommendations for hardware and software in a scientifically professional manner. They arrived at an independent decision that a multi-purpose, multi-station field computer was the best equipment for the 706 agencies. The same type of analysis of EEOC's users needs before the purchase of the equipment would have disclosed the same need for EEOC. If CACI was required to do this careful analysis before the purchase of hardware and software, certainly we would be required to do the same type of professional research before we purchased XT's and R-Base. For approximately the same cost, EEOC users could have a system that meets their needs and meets the need to be compatible with the 706 agencies. Now the cost will have to be duplicated sometime in the future to provide the EEOC users with an adequate system of CSRS.

The existence of the already purchased EEOC equipment is the main obstacle now to getting an adequate CSRS system to the users. The money for the CSRS redesigned system has already been spent. To now purchase the necessary equipment to meet the needs of the users would be an admission that the Ramis II, XT's and R-Base should not have been purchased. There are other uses for the XT's and R-Base software. Purchasing them is not a complete loss, however, the point is that the money set aside for the CSRS redesign has been spent and that equipment will not do the job. To provide the required users needs, the cost would be approximately doubled and delayed for an indefinite period. The users needed an all-terrain vehicle with 4-wheel drive and we got a sedan. We can now use the sedan for other purposes but in order to fulfill the requirements of the users, we will have to buy the all-terrain 4-wheel drive vehicle. <u>The cost of this mismanagement is approximately $400,000.</u>

The example again points out the tremendous disparity of accountability between headquarter's and the field offices. There simply is no accountability for headquarter's officials. Can you imagine what the impact would have been on me as a field Director if the frequent audits of my offices turned up the mismanagement of $40 much less the mismanagement of $400,000? Surely, if the mismanagement of the purchase of the IBM display writers resulted in the forced retirement of Harold Sye, the purchase of the XT's and R-Base software is also wrong.

The time, travel and per diem of the ill conceived CTS, LTS programs are also a concern to me. These programs were poorly designed and implemented. They will be dropped because of it. The money for all the people brought to Washington and trained was wasted. The CTS LTS programs were not even tested before the trainees arrived. Most of the training time was spent trying to get the kinks out of the system. Money wasted on a program that had no chance to succeed and, even if it

did, it would not have been used in the new system being recommended by the CSRS redesign group, which was going on at the same time. The cost in only travel and per diem for this program had to total over $20,000 at a time when travel has been cut back 5% across the board at EEOC.

I view the resistance of the recommendations of the CACI contractors by the Office of Management to be based on the defense of their own purchase of the Ramis II, XT's and R-Base. If the Office of Management agrees to the CACI's recommendations of a multi-purpose, multi-station unix computer for 706 agencies, then that is an admission that the purchase of our own equipment was poor judgement.

If we had been competent in the manner CACI was, we could have the best possible system of CSRS records in our agency with less money than has already been spent, without the now anticipated delay of implementation. There is no other word for the events described here but mismanagement.

I view the entire handling of these concerns to be gross mismanagement. My own involvement as the Director of the CSRS redesign group makes me vulnerable for my involvement.

I wish to make my concerns known to you because I have confidence in your integrity. I will proceed to fulfill my responsibilities as Director of the CSRS redesign group without any "let down" in performance, however, I have obtained legal advice on this matter. I remain an opponent of mismanagement of this type, especially when there does not appear to be any degree of accountability for those responsible.

I will not tolerate any attempt to retaliate against me for my already written and spoken reservations on the hardward and software purchases for the CSRS redesign system.

DWM/jw

UNITED STATES OF AMERICA
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
PHOENIX DISTRICT OFFICE
[illegible] NORTH SECOND AVE.
PHOENIX, ARIZONA [illegible]

February 8, 1985

MEMORANDUM

TO: John Seal
Management Director

THRU: Francisco J. Flores, Jr., Regional Director
Office of Program Operations, Region III

FROM: Marcello R. Gloria, Director
Phoenix District Office

SUBJECT: Final Report on Pilot Office Experience with CTS

As I promised during our conversation last week, we have prepared a final report on our CTS experiment. A good portion of our documents and work products derived from CTS have already been demonstrated and carried to headquarters by Ken Brown so I am not supplying any other material. I am summarizing our evaluation of the CTS Program and offering alternate proposals for your consideration.

First, as the old cliche goes, I have both bad news and I have good news to report. I will start with the bad news which is our unqualified recommendation to scrap CTS. Without even considering the poor product that we received or the basic design errors that we uncovered, there are three specific reasons to recommend that CTS be replaced:

1. The basic system design of CTS is inadequate. It does not provide field managers with any useful case tracking and management tools. At best, CTS MAIN is a poorly designed attempt to duplicate our Form 155, with some glaring omissions such as CP addresses and R addresses. CTSHIST is a poor attempt to duplicate the Ledger Card (Form 40a) and the design of CTSHIST is such that CTS will count actions rather than significant closing or agency actions. The overall design of CTS provided a cumbersome adaptation of RBase, with some major design errors in the logic command structure which make the overall system extremely slow to operate. CTS is not even as good as CSRS in ease of operation.

2. The CTS memory requirements will overwhelm a hard disk storage capacity in short order. With only 600 charges in the system, or the equivalent of two months of work, CTS required 3.5 M of storage on the disk, which means only 6 months of capacity. Although I do not have the figures for Birmingham, I have been informed that their larger 2-month data base used up one-half the storage space on the hard disk, leaving only two more months of capacity. In Albuquerque, because the Area Office had a smaller RAM available on their XT, we could not process CTS until we restructured the basic directory system on the hard disk. Our XTs do not have the capacity to handle CTS as designed.

3. The Reports Section of CTS is inadequate. We timed the process for generating four of the nine reports available on the menu and found the system exceedingly slow. We discovered that we had to compress the data base every time a report was generated because memory is used in large quantities to generate reports. The reports are not useful because of basic design flaws in CTSMAIN and CTSHIST. The adhoc report does not function. In fact we had better success and less problems using the native RBase to extract reports from CTS by using the normal SELECT commands.

We made every possible effort to make CTS work effectively. Without belaboring any further, it is clear that CTS is not useful at all. I would strongly recommend against any field office using the system. We gave CTS a fair test and evaluation over a three week period and can reach no other conclusion. No further modifications or corrections can correct the basic design flaws of CTS.

Now for some good news. You had inquired as to our overall impression of the IBM-XT and RBase and whether or not the equipment would have to be replaced. I can assure you that the equipment and software can continue to be used to implement a new case tracking system. We can offer you a charge tracking system, based on our System 6 design, that will use the XT and RBase and satisfy all the field programmatic needs and most of the reporting needs of OPO. We have taken advantage of the lessons with CTS as well as the data base already prepared for CTS. We have adopted some of the nomenclature to at least harvest some good from CTS. I am not certain what reports OPO will finally require, but at least we can provide the Form 396 reports and an effective case information management system.

The only question left unresolved is the transfer of information to headquarters for eventual replacement of CSRS. I feel very strongly that the information sent to headquarters should be only that programmatic data needed for bottom line indicators, for other direct program needs, and for archival or historical purposes. Our new system, which will be operational in Phoenix by March 1, 1985 is designed in three segments. The initial segment provides the charge intake information as to nature of charge, basis, issues, initial assignment and other historical/archival data. The second portion of our system is the charge tracking segment that provides field management with specific data on individual EOS performance, nature and size of individual caseloads, control of case assignments, information of investigative methodologies used, and other information needed to manage the compliance function in a field office. The third segment of our system would provide closure information on each charge processed. From our perspective, the only data needed centrally in OPO can be derived from Segments 1 and 3 of our system. Adoption of this basic design concept will significantly affect your final decision on the successor to CSRS. Our new system would not require new equipment or software beyond the XT and RBase, and if a decision is made to incorporate FilePro as our final system, we would have a viable working model for FilePro to adopt as part of the overall design of the EEOC system. I have attached a basic description of the system and we will be more than happy to share it with all field offices. I know that Don Muse has seen our initial design and felt it adequate for the field's management needs. Please let me know if you agree that our proposed system to supplant CTS is acceptable. As I have pointed out, it is functional, we are using the system, and it can be structured easily to meet current reporting needs for OPO. It will not require any new equipment and is easy to use.

As part of our effort we are designing complementary systems for Legal tracking and Hearings tracking. I again strongly urge that LTS be scrapped also since it is dependent upon CTS to operate correctly. We can supply rapidly the basic systems using existing software and equipment. I have attached a basic description of the system design. If you approve we can provide the documentation and training. The only prerequisite is easy familiarity with RBase.

My office plans to use these systems for all of Fiscal Year 1985 and until your final system is ready to install and supplant CSRS.

bcc
Donald Muse, District Director
U. S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Dexter Horton Building, 7th Floor
710 Second Avenue
Seattle, Washington 98104

PXCIMS
PHOENIX CHARGE INFORMATION MANAGEMENT SYSTEM

What does the system do?

1) It records, stores, manipulates and outputs charge data instantly.

2) It provides an automated data base that is reliable, timely, and allows easy access.

3) It provides for information management and information for management for effective program and office operations.

4) Programming and design features allow for the input of comprehensive charge, charging party, and respondent information which then can generate pre-addressed correspondence.

5) It reduces supervisor time involved in case logging, tracking, monitoring and reporting.

6) It provides an easy reporting format for generating reports to headquarters.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

FEB 12 1985

MEMORANDUM OAP-10

TO : Headquarters Office Directors
District Office Directors
Area and Local Office Directors

FROM : James Troy JB for
Program Director

John Seal
Management Director

SUBJECT : CSRS Redesign Decisions

As many of you know, we have recently considered the options available to us regarding the possible shutdown of the CSRS during FY 1985. Factors favoring such a decision were potential cost savings, savings of staff time and effort, and problems with the ability to generate the necessary information from the current CSRS.

Were we to shutdown the CSRS, our best alternative to supply national program data was to implement an interim system that would, at best, mimic the current CSRS, but would have very little relation to the planned new system. For that reason, it seems that the cost of development, implementation, and its very short life span negate our hopes of providing you with a locally based case tracking system this fiscal year.

Having carefully examined the current system, and the problems inherent with implementation of a new system on October 1, 1985, we have decided that the CSRS will remain in operation through September 30, 1985. One of the most important activities of the Office of Program Operations and the Office of Management is the development of a new system to replace the CSRS. In light of the time available for this development, it is essential that all available resources and energy be devoted to the new system. Were we to attempt to place an interim system in operation through September 30, it is likely that it would affect our ability to produce the best possible system in October.

In light of the need to allocate staff to redesign CSRS, and because of the limited usefulness of the Interim Case Tracking System (which still would require some modifications to make it worthy of your time and effort to implement), we have decided not to implement the Interim Case Tracking System (CTS) between now and September 30. The Legal Case Tracking System, however, will be made available to you as planned. We are also working on some financial management applications for your offices to use this year. Offices that have developed their own applications should forward copies to Ardahlia Mack (Room 313) so that they may be distributed through our clearinghouse program.

As part of the effort to clean up as much of the CSRS data base prior to implementation of a new system, you can also expect to receive instructions developed by the CSRS Redesign Work Group on taking a "hard" inventory of your caseload before September. These inventory projects will be conducted in a phased approach with assistance from the Work Group.

Finally, draft user requirements for the redesigned CSRS will be sent to you shortly for review and comment. Please pay close attention to the documents, since they will form the basis for the design and programming of the new CSRS.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Seattle District Office
1321 2nd Ave., 7th Floor
Seattle, Wa. 98101
Telephone (206) 442-0968

M E M O R A N D U M

TO: John Seal
Ken Kashurba
Bill Oliveiri

DATE: May 6, 1985

FROM: Don Muse, District Director

SUBJECT: Computer Software

There is a need to address the personal computer software situation that exists within the agency nationwide.

Presently, all offices are equipped with both the Word Perfect and RBase 4000 software. While Word Perfect has proven to be an efficient tool, this office along with several others has experienced severe limitations with RBase 4000. Put simply, RBase 4000 is extremely clumsy to use and lacks the sophisitcation available with other products presently on the market. Because of this, some offices have sought relief by using other products, e.g., d-Base III and PC-File.

In discussions with Microrim, RBase's manufacturer, the only solution offerred was to upgrade to RBase 5000 at a cost of $495 per unit. Even that would not solve the RBase 4000 limitation on networking (it can't), and would eventually require an upgrade to RBase 6000 (which hasn't been released yet).

Furthermore, our understanding is that financial management applications are being developed using Lotus 1-2-3. Lotus 1-2-3 is a very powerful program, but when utilized with a 256 K machine (as most of our PCs are), is analogous to "hiring a surgeon to cut paper dolls", i.e., you can't fully utilize the program's potential. Of course, we could enlarge the memory of our PCs but that would be a very expensive way to achieve full utilization of this program.

There is, however, other software on the market that would solve both the database management and spreadsheet problems mentioned above. It is called the "Smart Series" and is produced

by Innovative Software, Inc. located at 9300 W. 110th St. Suite 380, Overland Park, Kansas 66210. The "Series" includes a spreadsheet equal to or better than Lotus, a database manager more powerful and easier to use than RBase 4000 (in fact, it's reputed to be equal to or better than d-Base III), and an excellent word processor. A member of our staff has had extensive experience with Smart and can speak authoritatively to its capabilities and user friendliness. A new release is due in about three weeks at an offerring price to existing RBase 4000 users of around $495 for the series.

Because this system uses a technique called "virtual memory", the series is not "memory bound", as are most of the other available programs. "Virtual memory" is a technique of selectively interacting RAM and program disk storage to emulate an almost limitless amount of RAM. Thus, the full potential of this software would be available without changing the present configuration of our equipment.

Frankly, it would seem more cost-effective to purchase this system than to purchase Lotus and an RBase 4000 replacement separately. Although we don't need the word processor module, it would be more costly to purchase the spreadsheet and database manager separately than to get the whole series. We also think that software throughout the agency should be standardized so that applications can be readily shared, at a significant saving in cost and time to all concerned.

We understand that at least a couple of federal agencies are considering upgrading to Smart, or may have already done so. We recommend that this agency do the same.

cc. Paco Flores, Headquarters
Ethel Rocco, SEDO
Hermenio Gloria, PXDO

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
SEATTLE DISTRICT OFFICE
1321 - 2ND AVENUE, 7TH FLOOR
SEATTLE, WASHINGTON 98101
TELEPHONE (206) 442-0968

September 3, 1985

MEMORANDUM:

TO: John Seal, Management Director
Richard Kashurba, Director Information Systems Services

FROM: Donald W. Muse, District Director
Seattle District Office

SUBJECT: Removal or Replacement of the AJ 862 Terminals for NIH Timesharing

For both increased cost savings to the Agency and for increased performance to NIH time share users we propose that the AJ terminals leased by Headquarters for the District Offices at great expense be removed or replaced.

We have found that the IBM PC's with a Hayes Modem and Smartcom II performs much better than the AJ 862. The transmission carrier is not lost as easily and the Hayes Modem seems to withstand telephone line noise better than the AJ Modem. It is much more convenient to use a CRT screen display rather than the AJ Printer.

The Smartcom also supports convenient features such as autodial, save transmittal files to disk, etc. that are not available on the AJ units.

We recommend either replacement or removal based on the following criteria:

1. In offices where present PC's are not being fully utilized (at least 4 hours per day) the leased terminals can be eliminated completely, saving over $200 per month. Since the PC's already have the required modems, no additional expenses will be incurred.

2. In offices where the present PC's are under high rates of utilization, an additional PC, with printer, modem and software can be leased for less than the present terminals.

We believe that the leasing of portable PC's that are IBM compatible would be advantageous in those offices where replacement is appropriate. The PC could then be used as an investigative and negotiation tool. The portability would allow the PC to be used in the field to help collect and analyze company records.

DWM:RU:pb
cc: Paul Royston
Joe Donovan

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

[redacted]

9-23-85

copy sent to Stan Hart 1-16-86 MB

MEMORANDUM

TO : Donald Muse, Director
Seattle District Office

THRU : Francisco Flores, Director
Region III Programs

FROM : Richard Kashurba, Director
Information Systems Services

SUBJECT: Request Transfer of Funds for Purchase of Computing Equipment

We have received your September 9 request to transfer $1467 for the purchase of computing equipment. We appreciate the strong data processing capabilities which your office has developed, and understand the improvement in efficiency of office operations which stands to be realized from networking. However, we cannot concur with this request at the current time for reasons that have little to do with the merits of your ideas or ability to implement them.

The Seattle office has been chosen as a pilot test site for the CDS system. A major part of the tests involve timing of system responses and determination of the required memory and system resources for efficient processing. For these reasons, ISS requires all systems to remain uniform in configuration throughout the pilot test phase, and until the parallel processing phase of CSRS-CDS switchover is complete.

You will be pleased to know, however, that the Seattle district office has been designed a pilot site for office automation and local area networking. ISS hopes to begin development of the networking soon after soon the CDS pilot tests are underway.

cc: John Seal
James Troy

UNITED STATES GOVERNMENT

Memorandum

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
SEATTLE DISTRICT OFFICE

TO : Jim Troy
Program Director

DATE: September 30, 1985

In reply refer to:

Thru : Francisco Flores, Director
Region III Programs

From : Donald W. Muse, Director
Seattle District Office

Subject: Waste & Mismanagement

I have written to you earlier bringing to your attention the waste and mismanagement in purchasing PCXTs and R Base 4000 software for the CDS Program. I have now learned that there is an additional expense added to the previously reported over $400,000 in waste and mismanagement of the CDS Program. The Office of Management Services of EEOC has agreed to reimburse the private contractor for $98,000 spent in buying yet another type of computer which will not be used for the new Charge Data System. The contractor, Caci, purchased $98,000 worth of Fortune computers to initiate the State & Local Agency Charge Data System. The Office of Management Services had objected to the use of Fortune computers because of unfounded speculation that Fortune Computers would go bankrupt. The Fortune Co. was at all times, and continues as a fully accredited GSA contractor, as evidenced by a confirming visit to GSA by the contractor monitor in early 1985. The Office of Management Services objections to the use of Fortune through unfounded speculation of bankruptcy resulted not only in an additional $98,000 waste but has also resulted in extensive delays in implementing the new CDS system. Reprograming from the Fortune computers to the new NCR Mini Towers is used as present excuse for delay in implementing the program. The total amount of money mismanaged and wasted is over one-half million dollars, also resulting in further delays in implementing the new CDS system. The PCXTs will be used as word processors, the R Base 4000 software doesn't have any particular use, having been replaced by FILEPRO II software. The ten (10) Fortune computers will either be sold at 40% of the initial cost or disbursed throughout EEOC Headquarters to be used as very expensive word processors. Over $500,000 set aside specifically for the new CDS system has been expended on equipment and software that is now acknowledged will not be used for the purpose it was intended. The money to implement the new CDS system will have to be duplicated when and if it becomes available as well as the continued delay in the CDS Program. If this is not waste and mismanagement, then I fail to define the terms properly.

Your memo from Field Office Operations dated September 4, 1985 concerning the Office of Audit investigations into the Field entitled "FY-85 Office of Audit Investigations in the Field" is well taken by me as District Director. However, I believe very strongly that the standard of conduct between Field Offices and Headquarters is grossly disparate. While the Office of Audit is concentrating on the majority of minor complaints filed primarily by disgruntled, disciplined or discharged employees, gross waste and mismanagement of government funds goes by unpunished, unacknowledged,unrecognized and unchecked at Headquarters.

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Allegations made against Field Directors are basically minor in significance compared to waste and mismanagement, as outlined in this and previous memos, yet your memo indicates the problems are centered in the Field Offices. Your memo indicates Field personnel have been severely punished for their infractions, however, there is no such action taking place in Headquarters because it is not being investigated or determined on the same bases as the Field.

I am greatly concerned about this disparate treatment whereas there are people responsible for waste and mismanagement in Headquarters who continue to receive high ratings and SES bonuses. I am, after 30 years of law enforcement, able to recognize this disparate treatment based on the recent FMS audit of my District Office and your 9-15-85 Field Audit memo and the waste and mismanagement at the Headquarters level of which I am sure I have only touched the tip of the iceberg.

During the previous administration, the Director of Financial Management Services, Walter Fauntleroy, went about his duties in a similar manner to the present administration, however, you are more familiar than I with the conditions under which he was forced to resign from EEOC. In fact our problems in FMS in Headquarters extend back over 15 years. As a Field Director since 1971, I have been subjected to repeated audits many times a year, I am rated and disciplined under this system of audits, however, no such similar rating and disciplinary system effectively exists with Headquarters Directors.

I find it extremely difficult to remain silent about the waste and mismanagement on such a grand scale in Headquarters while I am being falsely accused of an improper DHL charge of $3. Surely the disparate standard of conduct and evaluation between Headquarters Directors and Field Directors is as apparent to you as it is on a factual basis.

The purpose of this memo is to appeal to you to eliminate the obvious disparity between the Field Offices and the Headquarters and to decide waste and mismanagement in Headquarters on the same bases as the Field. This would have resulted in the CDS Program being up and operating effectively, whereas now we continue to waste millions of dollars in man hours on a CSRS System that is time-consuming, inaccurate and unreliable.

DWM/ec

From the EEOC - Office of Program Operations - Annual Report - FY 1985

units in evidence and trial related problems. This interactive training aided the office to improve the quality of investigations and to enhance the professional relationship between employees.

o On-site Investigations - The field offices moved toward conducting more on-site investigations during FY-85. The immediate benefits realized were more timely investigations with higher quality evidence.

o Quality Control - With field office input, Regional Programs revised the quality review module utilized to assess the quality of case files processed by the field. Regional Programs applied the review module standards in its review of the 22 Districts during FY-85. Regional Programs found less than 5% deficiencies in the sample of 2408 cases reviewed.

o Case Management - Regional review of field offices included inspection of the charge management and tracking methodologies of the District, Area, and Local Offices. Particularly impressive in several District offices were the different automated data processing tracking systems in use. These systems were independently developed and designed in accordance with the managers' specific needs. Some of the innovative ideas from these offices were incorporated into the plans for the new national charge data system (CDS) which was developed during FY-85 and will be fully operational in FY-86. The CDS will allow the Agency to virtually remove the manual reporting burden of the field offices.

ORIGINAL TIME CDS SYSTEM WAS EXPECTED TO BE FULLY OPERATIONAL

///

EEOC's legislative mandate requires the Agency to provide educational and technical assistance to those who have rights and responsibilities under the Federal statutes that we enforce. In the past, the Agency paid constant attention to investigating, resolving, and litigating charges of discrimination, but no concerted attention to the education and technical assistance responsibilities. Therefore, in FY-84, EEOC embarked on two "new" initiatives, expanded presence and voluntary assistance, which evolved to full fledged programs in FY-85.

The Expanded Presence Program is designed for District Offices to make this Agency accessible in areas identified as underserved by our offices. The Districts send contact teams to these sites, on a rotating basis, to impart information regarding this Agency's mission and the public's rights and responsibilities under the laws we enforce. During FY-85, field staff completed 1033 trips to their contact points, received and responded to 7013 inquiries, and received 3520 charges.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Markup

October 29, 1985

MEMORANDUM

TO : Kate Blunt, Director
Chicago District Office

FROM : Joseph S. Bennett, Director
Region II Programs
Office of Program Operations

SUBJECT: Program Management and Quality Assurance Reviews of the Chicago District Office

Region II Management Review team conducted a Program Management and Quality Assurance Review (case file reviews) of the Chicago District Office on July 16-19, 1985. Team members were J. C. Alvarez, Jose' Rosado, Kermitt E. Wheeler, and Joseph S. Bennett. An additional review was conducted in Chicago from September 9-13, 1985, by Ralph Soto. The additional review was required because the initial review was cut short due to lack of hotel accommodations. Furthermore, there was a need to review more open files.

The purpose of this review was to assess the District's performance in dissemination of programmatic goals and objectives to the staff, case management, charge docketing and tracking systems, performance appraisal system implementation, financial management, state and local program, legal and compliance interaction, labor-management relations, training program, space and equipment, voluntary assistance program, expanded presence program, public relation programs and quality of case processing.

We examined and reviewed the charge docketing and tracking systems, case files, performance reports, personnel records, financial cuff records, monthly re[illegible] [illegible], office equipment inventory, and other available information and records. We also conducted personal interviews with the District Director, Compliance Managers, Compliance Supervisors, Administrative Officer, Personnel Management Specialist, Budget Analyst, Union Officials, and EEO Counselor. Prior to leaving the district office, we briefed district managers in exit conferences conducted on June 7 and September 13, 1985. Preliminary findings and District Office feedback were discussed at the exit interview.

The overall assessment is that the District has slipped from its high performance in previous years. The case file and management review revealed numerous errors in procedure and quality that urgent attention.

During the closeout interviews, the Director and Deputy Director were unusually defensive about any criticism or suggestions offered. It is important to remember that this review is meant to improve the delivery of services to the public and strengthen support for Commission goals. The Chicago District Office is a part of the Region II team and the success of the Chicago office is important to the team as a whole. Particularly in light of the problems the office experienced during the first half of the year, this external perspective can be useful in helping the office reach its maximum potential.

The following summary represents an analysis of our findings and recommendations for corrective action.

CLOSED FILE REVIEW

A total of 94 closed and open case files were reviewed. A random sample was drawn from of the various types of closures effected in the district. The base document for selection of the majority of the sample was the CSRS valid closure listings for the second quarter FY 85.

Tracking/Management Systems

The Chicago District Office does not have a standardized charge tracking system, but allows each supervisor to maintain individualized systems. There are several problems created by this situation. While the various systems provide adequate recordkeeping and data collection for case tracking purposes, they are not effective as a management tool. Also absent in the various tracking systems is a method for managing the interim phases of the investigative process. The field review indicated that, using their individualized systems, supervisors were unable to identify the status and processing history of cases selected at random.

The office established a Case Categorization/Case Assignment Filing System to help individual EOSs more effectively manage and control their workload. None of this individualized case progress/control information, however, was maintained by the unit supervisors for use in managing their units. Nevertheless, the Case Categorization/Case Assignment system appears to have had a positive effect on the staff because productivity increased in the second half of the year.

GENERAL FINDINGS OF RAPID AND EXTENDED CHARGE FILE REVIEW

Investigative Plans: The charge file review indicated that investigative plans are not being prepared in accordance with the guidance found in section 22 of EEOC Order 915. Investigative plans were not found in many of the files, and many did not contain specific enough information to be considered a plan. The documents examined tended to be cryptic reiterations of the RFI data requested, which did not focus on witness testimony, and contained no evidence of supervisory review (See 051-84-2926; 051-84-5512; 051-84-3476). It appears that, when used, these documents are being completed as a matter of form rather than being used as flexible outlines which document the proposed direction of the investigation process.

In 21 charge files reviewed no investigation plans were found: 051-84-3284; 051-84-3657; 051-84-2688; 051-84-4473; 051-84-1422; 051-84-2800; 051-84-2058; 051-84-4031; 051-84-4133; 051-84-0139; 051-84-1663; 051-84-1647; 051-84-3280; 051-84-1744; 051-84-4974; 051-84-3753; 051-84-1391; 051-84-2505; 051-79-8102; 051-84-4518; 051-82-2889.

Requests for Information: It is our understanding that the District Office has recently prepared and is currently using a revised RFI clause system, in which the focus of the clause has been shifted from requesting that respondents create lists, to requesting copies of documents which contain the needed information. The charge file review, however, revealed no consistent pattern in this respect. There remains a significant reliance on the use of list generating clauses (See 051-85-2058). Due to the relative newness of the revised system, we assume that when fully implemented, this practice will be corrected.

The following specific deficiencies were also noted:

a. Several extensive RFIs were noted which contained numerous duplicative requests for information. For example, in the RFI for charge number 051-84-2058, items 4 and 8 both requested, in part, copies of charging party's disciplinary record and items 5, 6, 9, 12, and 13 all solicited comparative data on disciplinary actions. In the RFI for charge number 051-84-3445, items 5, 8, 9, 10, 11, 12, and 13 request that respondent provide [illegible] with [illegible] policy and procedures, and items 6, 7, and 17 request information relating to craft worker vacancies.

b. In charge number 051-84-3490, the RFI failed to address the transfer issue and a portion of the required comparative data. Accordingly, a second RFI had to be issued.

c. In charge number 051-84-4031, the initial RFI failed to adequately address the issue. A total of three RFIs were prepared and sent to respondent.

d. In three cases 051-84-3491; 051-84-3280; 051-84-1084, the RFI was missing from the file.

e. In charge number 051-85-2199, it appears that the RFI was not checked prior to mailing. The first item of the RFI reads:

> "Submit the following information for the legal secretary job classification."

However, nothing follows which relates to this request.

Log of Investigative Activities #159: In most files, the log of investigative activities (Form #159) was virtually useless as a tool for tracking the processing or general identification of cases as prescribed by the provisions of Section 67.1 and 67.2 of the Compliance Manual. In almost all cases, the logs failed to identify the processing unit, the charge name and number, the date(s) on which the IP and RFI were prepared, the date on which the RFI was mailed, the date on which respondent's data was submitted, and/or the date on which the recommended finding was submitted for supervisory review. Accurate updates on case progress or contacts with charging parties were rarely noted in the log. Dates which did appear on the 159 were erroneous in many instances, when reconciled with the dates on the items within the file. Additionally, supervisory and managerial review and approval at appropriate points of investigation were not recorded on the case diary logs. Aside from these procedural deficiencies, the logs were frequently illegible. The review teams' work was greatly encumbered by the problems with the investigative log; attempting to reconstruct the activity on any one case using form 159 was nearly impossible, as information contained therein was frequently absent or incorrect.

While nearly all the files were deficient in this area, the following cases were particularly problematic: 051-85-2258; 051-84-5512; 051-84-3280; 051-84-3702; 051-84-0655; 051-84-1422; 051-84-3063; 051-84-3880; 051-84-3491; 051-84-5381; 051-84-1476; 051-84-5166; 051-79-8103; 051-84-4518.

Tab Analysis: Most of the charge files reviewed contained no evidence of tab analysis. The analysis present in select files was generally of poor quality and did not appear to be used effectively to support the investigation.

FINAL ACTIONS

Negotiated Settlement

Thirteen sample closed files were reviewed. Four of the sample settlements reviewed did not conform to the provisions of sections 15.3 and 15.5 of the Compliance Manual.

a. In two files 051-84-1422 and 051-84-2088, the review team was unable to find a copy of the settlement agreement. There was no evidence in the file to support the closure.

b. In one file, 051-84-3131, the case was settled for $2000 and a favorable letter of reference. Although a copy of the letter of reference was in file, there was no evidence of payment of the monetary relief agreed upon. The file lacked evidence of appropriate monitoring of the settlement agreement; a copy of both documents should be in the file. Additionally, the settlement agreement indicates that CP and Respondent signed the agreement August 10, 1984, and August 17, 1984, respectively. The District Director signed on January 4, 1985, almost five months later.

c. In file 051-82-2889, the respondent was served with notice of the charge 41 days after filing of the charge.

d. Files 051-84-2800, 051-84-1473, 051-84-2088, and 051-84-1326 were disorganized and file material was not secured in the package.

No Cause

Forty-nine sample closed no cause files were reviewed. Most contained evidence that PDIs were held consistent with the provisions of Compliance Manual (CM) section 27.3. Most files were tabbed in accordance with CM provisions and contained the necessary evidence to support a no cause finding. In the following files, however, substantive problems were noted:

a. In charge number 051-85-2058, the charging party alleged that he was discharged and that respondent failed to rehire [illegible], the [illegible] examination of the investigative memorandum and the file indicates that the comparative data needed to prove or disprove charging party's allegations was not obtained. Although an extensive RFI requesting the needed information was submitted to respondent, in almost every instance that comparative documents were requested, respondent failed to submit them alleging that the request was too burdensome. Additionally, there was no evidence in the file that subsequent action to obtain the needed data was ever taken.

b. In charge number 051-85-3853, charging party alleged that respondent discriminated against him due to his national origin, Hispanic, and Hispanics as a class with respect to hiring. This charge was identified as a "Blitz" case and forwarded to the extended function for processing. An examination of the investigative memorandum and the file, however, indicated that the data needed to resolve the class issue was requested, but never obtained. Additionally, the file evidences no conscious intention or substantive justification for narrowing the scope of the investigation. This is particularly disturbing in light of the facts that 77 percent of respondent's janitorial staff is white and predominantly Polish, which is consistent with charging party's allegations. (The precise percentage of Polish janitors on board can not be determined because respondent also failed to submit complete national origin data.) Charging party also provided the names of four other Hispanics who unsuccessfully sought employment with respondent. However, the file contained no evidence that a concerted effort was made to contact any of these individuals.

c. In charge #051-84-5512, a hiring/sex discrimination charge, the charging party alleged possible class violations which were not pursued. Half the witnesses named were not contacted; respondent claimed to have hired from submitted resumes yet the four men hired did not submit resumes; lists of applicants whose resumes were on hand prior to the alleged violation date contained no women yet evidence indicated women had submitted resumes; in fact, the respondent coincidentally forwarded the originals of the women's resumes to the CDO. No information was ever obtained on the respondent's hiring policy, despite the fact that hiring was an issue. Nevertheless, the charge was dismissed, presumably, on its merits.

d. In charge #051-84-3702, a promotion/national origin charge, the IM and supporting evidence basically focused on the issue raised in two concurrent charges, hiring/race. Despite the fact that the respondent indicated in its correspondence that charging party was the only Mexican-American at the plant, the issue of past promotion practices was never fully investigated. A more substantial investigation of the promotion issue in this case was [illegible] the final decision reached in this case

Cause Cases

In the two probable cause files reviewed, the following substantive problems were noted:

a. In charge number 051-85-2839, the charging party alleged that she was discharged by respondent because she was pregnant. The "undisputed" evidence indicates that:

1. There were three clericals working for respondent, of which charging party was the least senior;

2. There was not enough work to keep three clericals busy;

3. The charging party was not replaced;

4. The respondent knew of charging party's pregnancy approximately five months before she was laid off; and

5. the charging party was the only employee laid off.

The evidence presented in support of the cause finding is essentially as follows:

1. respondent knew that charging party was pregnant;

2. approximately two weeks before charging party was laid off, her supervisor asked another clerical (i.e. charging party's sister-in-law) how long charging party planned to work and whether she was planning to come back after the baby was born;

3. charging party's sister-in-law responded that charging party was planning to work until May and she did not know whether she planned to come back after the birth of her baby; and,

4. charging party was the only person laid off.

The evidence supporting the cause finding does not overcome the undisputed evidence that there was not enough work for three clericals, that charging party was the least senior of the three clericals, and that unlike the other two clericals, the quality of charging party's work was in dispute.

Furthermore, the entire body of substantive evidence in this case is testimonial, none of which has been preserved. The file is void of notarized, signed, or other credible forms of witness statements. The entire body of testimonial evidence consists of the PDIs hand written notes of what was said. Recorded or otherwise witnessed statements or signed statements are eminently more functional than an investigator's notes. However, there is no indication that an attempt was ever made to obtain evidence in a more credible and functional form.

b. In charge number 051-85-0016, the charging party alleged that respondent denied him medical insurance benefits and discharged him due to his race, Black. Additionally, charging party alleged that respondent discriminates against Blacks, as a class, with respect to recruitment and hiring. Although the evidence supports the cause finding on the class issues, it does not support the cause finding on the individual issues.

With respect to the insurance benefits issue, the evidence does not resolve the dispute regarding why charging party was not enrolled for insurance coverage. However, the file does contain a signed statement from charging party's brother, a supervisor for respondent, which indicates the following:

1. that charging party was visiting him for three or four months and was returning to Memphis after his visit;

2. that he asked the respondent to give the charging party a job for a couple of months; and

3. that both he and the charging party told respondent not to enroll the charging party in the insurance program because the charging party was not going to be there long.

The evidence supporting a cause finding on this issue is essentially that:

1. charging party was the only employee classified as a part-time temporary worker; respondent stated that it hired charging party as a favor to his brother, since it had 6 or 7 employees on lay off at the time; although information regarding these employees was requested, it was never received and no attempt to subpoena the data was noted in the file; and

2. charging party was the only employee not covered by insurance either through respondent or some other source.

With respect to the discharge issue, no evidence was obtained to support charging party's allegation of discrimination.

Finally, the file fails to document respondent's explanation for its alleged discriminatory conduct. Respondent stated that it hired charging party as a favor to his brother, since it had 6 or 7 employees on lay off at the time; although information regarding these employees was requested, it was never received and no attempt to subpoena the data was noted in the file; and after it was notified of the existence of the charge. (There were notes with applicants names and addresses, since respondent does not use employment application forms). This technical violation was not addressed in the finding.

Both the cause findings were apparently forwarded to the legal unit for litigation worthy reviews however, in neither file was there a memorandum documenting the substance of these reviews. Interviews with supervisory personnel confirm that this type of legal review is not normally documented by the legal unit.

Unsuccessful Conciliation

Three cases closed in CSRS were reviewed. All three closures were supported by file data as appropriate. All three contained failure of conciliation letters, form 134 conciliation case analysis and form 161A Notice of Right to Sue and conciliation failure. In two files 051-84-2505; 051-81-1084, the PDIs are not documented.

Successful Conciliation

Two cases reported in the CSRS were reviewed. Both met quality standards. The agreements were in writing, clearly defining the terms of the agreement. File documentation was supportive of the closure.

Withdrawal Without Benefit

Six sample closed files were reviewed. While the withdrawals were in writing per the provisions of CH 7.2., major problems were noted in two of the files reviewed:

a. File 051-84-5166 contained numerous problems. No charge was in file. Request for withdrawal stated: "I was informed that the Commission could not help me with my case because I had no grounds for discrimination." The file did not evidence adequate investigation of this statement to determine if the charging party had been misinformed.

b. Case 051-84-4518, although closed administratively, the evidence was very flimsy (i.e. handwritten notes on scrap paper from respondents representatives). Prior to this withdrawal, the IM was being written up solely on the statements by the respondent. While the charging party's statements indicated willingness to work any hours, IM indicates respondent fired charging party based on her inflexibility in work hours based on handwritten note from respondent. Even though the IM issue is mooted by the administrative closure, the fact remains that this, as well as other cases, often appear improperly concluded or written up largely on the statements of respondents.

Failure to Cooperate/Unable to Locate

Five sample closed files were reviewed. All contained properly completed form #791. Thirty day final notices were provided to CPs prior to dismissal. One file, 051-85-1534, was problematic in that after receiving an unperfected charge from the charging party, only one attempt was made to contact him before the case was closed.

No Jurisdiction

Three sample closed files were reviewed. All contained properly completed form #791. In one case, 051-84-1620, an extensive request for information was made and received before determination of no jurisdiction was made; the evidence on the face of the charge indicated that this determination should have been made prior to the information request.

Unsuccessful Negotiated Settlement ADEA

Two sample closed files were reviewed, however documentation was in a lead file which was not accessible to the review team at the time.

STATE AND LOCAL DEFERRAL CASES

FEPA Additional Contract Credit Reviews: Seven charge files were reviewed in which the district office had given the FEPA contract credit for other than a completed charge resolution. In each case, the charging party had requested the EEOC issue a Right to Sue on a charge that was being processed by the contract FEPA. Payment is authorized in this situation under section 4(E) of EEOC Order 916, Appendix A, when the FEPA submits documentation that it has completed a "substantial investigation" at the time of EEOC's issuance of the Notice of Right to Sue.

In six of the case files, there was no documented evidence that the FEPA had conducted a substantial investigation. The seventh file contained documentary evidence from the FEPA, however, there was no indication in the file that the information was ever reviewed. Absent a "documented" showing that the FEPA had conducted a substantial investigation, as of the time of EEOC's issuance of a Right to Sue notice in each case, these and all other credits, so accorded, must be rescinded and monies paid to the FEPA recovered.

Staff interviews indicated that the long standing practice in the District Office has been to call the FEPA and inquire whether a substantial investigation has been completed. If the response is in the affirmative, credit is granted without a review or validation of the FEPA documentation. Furthermore, we have been advised that the District Office has awarded contract credit to the FEPA when it submits a charge resolution, even though it fails to resolve one or more of the issues because it lacks jurisdiction over the issue(s). Granting contract credit under these circumstances is not authorized by the provisions of EEOC Order 916.

The examination of these State and Local charge files, the corresponding ledger cards, and staff interviews indicate that rather than issuing the Right to Sue notices in the State and Local function, the District Office routinely transfers these cases to the Rapid function. The subsequent closure actions are, therefore, recorded as Rapid closures. Since there is no programmatic justification for this type of procedure, it appears that the intent of this procedure may be to inflate RCP productivity figures.

No Jurisdiction Reviews: Four sample files involving no jurisdiction submissions by the FEPA were reviewed. In each case, the evidence submitted supported the finding.

A major problem was noted, however, in the following files:

> In charge numbers 051-84-1953 and 051-84-3604, the files and corresponding ledger cards indicate that at the time credit was awarded for the closure actions, the District Office had not yet received the documents necessary to make a determination that the closures were in accordance with EEOC's requirements. In charge number 051-84-3604, credit was awarded on 1/31/85. EEOC Form 214 in the file, dated 3/29/85, indicates that the required documents had not yet been received.

Because the required documentation had not been received by the District Office, it appears that initial credit was improperly awarded in these two cases.

ADMINISTRATIVE MANAGEMENT REVIEW

The Management Review Team examined and reviewed the Imprest Funds and the Traveler's Check record. The review revealed the following:

1) Imprest Funds - The District has been assigned a total of $650.00 in cash. This fund appears to be adequate for the operation of the District. The review of the accountability report for the month of June indicated a total fund of $657.00, which was broken down as follows:

Unscheduled subvouchers	$ 7.00
Cash on Hand	519.00
Reimbursement Voucher-Pending 6/25/85	81.20
Reimbursement Voucher-Pending 6/27/85	29.94
Shortage	8.00
Difference	11.70
Total	$657.00

The District Director explained that the office has carried over items of unscheduled subvouchers, cash shortage, and differences for more than a year. The Director also stated that on numerous occasions she has requested guidance from Andy Fishel, Director of Financial Management Services, to eliminate the above items or discrepancies from the district reports.

2) Traveler's Checks - The District has been assigned a total of $8,000.00 in traveler's checks. The review of the record indicated that the District was up-to-date in the preparation and submission of the remittance summary report to Finance Branch. However, the custodian was not able to identify the current outstanding balance of the traveler's checks. The district did not keep any control system of the number of traveler's checks, serial numbers or amounts. The Management Review Team recommends that the district should maintain a six column ledger including one for the number of checks, book and value, date of sale, and purchaser's name.

Financial Management

The District cuff records, close-outs, operating allowance reconciliation and purchase orders were reviewed. A spot check revealed that accounting transactions were accurate and up-to-date. Accountable records are kept in a neat manner, major and subsidiary object codes and master records were in balance.

The monthly financial status report indicated that all object classes were pretty much on target. Cumulative obligations were close to the budget allocations.

Personnel Management

The review of the Personnel records indicated that the Federal Personnel Manual was up-to-date and current. Position classification guidance was current and appropriately filed.

A spot check of the official personnel files revealed that personnel maintains in some files, the original signed performance appraisal and in other files, signed copies of the appraisal packages. The Management Review Team recommends that this practice be immediately discontinued and that personnel maintains a complete signed original of all SES, Merit Pay and GPAD packages.

The review of official personnel files also revealed that the performance appraisals of eight employees were incomplete or lacked appropriate signatures as follows:

- John P. Rowe - lacked reviewing officials signature.
- Jason S. Hegy - front page of performance appraisal did not show the rating period, the appraising officials name and title, and the reviewing officials name and title.
- Mary Manzo - lacked employee signature, but there was no indication that employee refused to sign or other reason for signature's absence.
- Jean F. Mahoney - Job Element III was not initially signed by employee, supervisor, or the reviewing official. In addition, the first review was not signed.
- Charles R. Bold - Job Element III was changed and duplicated, but the duplicated page was not signed by employee, supervisor, or reviewing official.
- Carlos Flores - performance appraisal and reviews were not signed by employee, supervisor, or reviewing official.

RECOMMENDATIONS/CORRECTIVE ACTION

Based on the analysis of our review findings, we request that the Chicago District Office immediately undertake the specified corrective action in the following areas:

Administrative and Financial Management Systems

- Include case closure and unit transfer codes in the outside jackets of all case files.

  Include a complete signed original of all SES, Merit Pay and GPAD packages in District Office personnel files. Also, make certain that performance appraisals are complete and contain appropriate signatures.

- Develop and maintain a control system for traveler's checks.

Investigative Plans

- Investigative plans are to be included in all files where required and evidence supervisory review and signature as required by the provisions of Section 14 of the Compliance Manual.

  Investigative plans can be a useful tool which both facilitates the initiation of an effective investigative process and assists supervisory personnel with the initial review and subsequent developmental monitoring of the charge. These benefits are particularly important in offices with large inventories and limited resources such as the Chicago District Office.

  In an effort to assist your office in correcting cited deficiencies, we have designed an IP form for your consideration (See attachment). Although we do not wish to imply that the noted problems can be cured by a simple form, we do believe that, properly implemented, it can provide you with a useful first step. Please review the attached form and provide us with your comments as to its usefulness.

Log of Investigative Activities #159

- Instruct staff to begin filling out Log #159s in such manner that processing of the case can be accurately and effectively tracked from the log.

  The Case Diary Log is a useful monitoring device, which facilitates periodic review of cases by supervisory and management personnel. Among other things, the log should contain information about the charge name and number, staff and unit assigned and supervisory review.

Tab Analysis

- Tab and analyze all relevant data in case files. Tabbing and analysis will assist compliance personnel in determining what, if any, additional data is necessary to complete the investigation, promote effective periodic and final review of the file by supervisory and legal staff, and improve the quality of investigations.

  The analysis should identify the information contained in the tab which is relevant to the issue(s) being investigated, identify any inconsistencies or trends noted, and provide appropriate statistical computations.

Tracking System

- Your supervisory staff is currently experiencing considerable difficulties in managing the office's workload. The problem is due, in part to the absence of an effective case management tracking system and procedures for maintaining reasonable EOS case load assignments. Accordingly, you are requested to develop an improvement project in which your office will:

  a. Design and implement an efficient Case Load Tracking System to be used by supervisors in managing the progress of cases in their units and maintaining current status of EOS productivity. The system must provide for identification of charges by unit/function and within this category, the age of the charge, the type of charge (i.e. by statue(s), by ELI or non-ELI designation and by complexity), whether the charge is assigned or unassigned and the date of assignment where appropriate, and in general terms the status of the case (i.e. pre-investigation, investigation conciliation attempt, etc.) and the date and type of final disposition. The system should also identify the charge by EOS, and the target dates for completion of interim phases of the investigation (i.e. preparing IP and RFI, analysis of respondent data, etc.).

  b. It is suggested you consider a system whereby charges are held in an unassigned pool in units, limiting charges assigned to each EOS at 35 to 40. The procedures for handling these charges should include: a periodic scheduled review of EOS workload to determine whether or not additional assignments should be made from unassigned charges; an initial supervisory review of all new charges to determine whether or not circumstances exist which would warrant the immediate assignment of the charge; monthly review meetings to establish assignment target dates and provide supervisory guidance as needed; and the scheduling of a specific amount of time (i.e. such as one day a week) in which all the EOSs or EOAs in a unit would prepare RFIs on unassigned charges. This is to avoid the possibility that the unassigned inventory will grow to an unmanageable level or age excessively.

State and Local Deferral Cases

Begin immediately reviewing all state and local deferral case files in which an "Additional Credit" has been accorded to the FEPA in FY 85, in order to determine if payment was properly authorized.

To complete this task, your office will need to identify and retrieve all case files receiving a 5199 CSRS coding action. Each case file should be reviewed to determine if documentary evidence is present which indicates that:

a) the circumstances, under which each credit submission was made, are appropriate for review under section 4(c), 4(d), 4(e), or 4(f) of EEOC Order 916 Appendix A; and

b) (if the above is answered in the affirmative), the FEPA documents submitted indicate that its investigation had been completed or nearly completed, depending upon the specific section cited as authority for the "Additional Credit." (Under section 4(c), covering files which must be sent to OPI (now OLC), the FEPA investigation must be complete.)

Additional contract credits accorded to the FEPA under circumstances other than those enumerated in sections 4(c) thru 4(f) and/or where there is no documentation to indicate that the FEPA investigation was complete or nearly complete as appropriate, will have to be rescinded and coding actions and manually prepared reports corrected. You are instructed to hold the FEP agency final FY 85 payment until you complete your audit of these credits.

Once you have completed these tasks, please prepare a report to me certifying:

a) the total number of case files reviewed and corresponding charge numbers;

b) the total number of case files and the corresponding charge numbers for each file in which a previously authorized credit was improperly authorized and therefore, rescinded;

c) that all necessary corrections have been made to the charge lists; Forms 471 (i.e. EEOC Statistical Reports on FEPA Contract Performance), Forms 322 (i.e. FEPA Monthly Performance Reports), and CSRS coding actions;

d) that you have notified the FEPA of the corrections and delineated which portion of the final FY 85 payment will be retained to compensate for the erroneous credits; and

e) that you have provided the FEPA and Headquarters with corrected Forms 471 and 322 reports.

This report should be received by my office no later than November 22, 1985.

With respect to documenting "Additional Credit Reviews", please instruct your staff that in all such cases, they are to prepare a memorandum to the file (EEOC Form 214 may be used for this purpose) which:

a) identifies the reason(s)for conducting an additional credit review and the appropriate section of EEOC Order 916, under which the FEPA file was submitted for review;

b) indicates whether the review is authorized under the cited section of Order 916;

c) provides a detailed outline of the information submitted by the FEPA and identifies what, if any, information is needed to complete the investigation;

d) contains a concluding statement recommending that contract credit should or should not be awarded under the given circumstances; and

e) is signed and dated by both the reviewing and approving officials (note: the approving official must be a GM-13 or above).

- Instruct your staff that they are not to award contract credit unless and until the FEPA submits the documentation required by EEOC Order 916 and the substance of these documents indicates that the closure action is consistent with the Commission's regulations.

- Cease the practice of forwarding Right to Sue requests from the State and Local function to a compliance unit for closure and prepare a report to me identifying by charge numbers, all charges which were transferred in FY 85 from the State and Local function to the compliance function subsequent to requests from charging parties that EEOC issue notices of right to sue. For each charge so transferred, the report should also specify:

  a) the unit to which each charge was trasferred;

  b) the date of transfer; and

  c) the date of closure.

  This report should be received by my office not later than November 22, 1985.

Compliance/Legal Interaction

Implement a system or procedures for compliance/legal interaction on investigation development and litigation worthy review on all charges identified as having litigation potential. Not only as a matter of effective practice, but considering the problems noted in our file reviews, it is essential, when conducting litigation worthy reviews, that your legal unit prepare a detailed memorandum which, at a minimum:

a) identifies the evidence needed for a prima facia case;

b) identifies the evidence obtained;

c) identifies any additional evidence necessary to support a probable cause/violation finding;

d) contains a discussion of the reasons and case precedents supporting the legal opinion; and

e) contains a final summation in which concurrence or non-concurrence is indicated.

CONCLUSION

As uncovered in the course of our review and identified in this report, there are a number of substantive and procedural problems you will have to address in FY 86. Because I need to be kept informed, with respect to the direction you intend to take in dealing with these deficiencies, please provide me with a report, in addition to the two already requested, addressing each of the deficiencies noted in this report and specifying what actions you will take to correct them. This report should be received by my office no later than November 29, 1985.

95-656 0 - 89 - 23

Chicago District Office
Audit Response

Top management of the Chicago District Office has carefully analyzed the November 4, 1985 Office of Program Operations Audit findings and recommendations. Our analysis included reviewing each and every case file reviewed by the audit team. Overall our review of these case files indicates that indeed some of our files were not as orderly as they might have been - logs, tabs, investigative plans certainly could be improved. However, be believe that the quality of our investigations and subsequent closures - the documentation gathered and the analysis of the evidence is of a good quality. With very few exceptions our final decisions are supported by the evidence. Where the audit team found differently, we believe they either overlooked specific facts or made a judgment call different, but not better, than ours.

What follows is our detailed response to each of the audit findings. Our response parallels the structure of the audit report.

CLOSED FILE REVIEW

Tracking/Management Systems

The Audit review concluded that the Chicago District Office did not use a standardized charge tracking system; that the systems were not effective as a management tool; that there was no method to manage the interim phases of the investigative process; and that supervisors were unable to identify the status and processing history of cases selected at random. It was recognized that the office developed a case categorization/case assignment filing system to help EOSs manage and control their workload. However, it was thought lacking because it appeared that this information was not maintained by the supervisor for managing their units, though it was recognized that the system appeared to be effective in increasing productivity.

Each supervisor of an investigative unit has a tracking system which monitors the following: charge number; EOS assigned; statute; category of proposed investigation; date of receipt; date of assignment; age of charge by EOS; age of charge by unit; timeframe assignments, i.e. due dates for the next stage of investigation; type of closure; EOS productivity; and unit productivity.

It is true that while each unit's inventory system is similar, each unit does have its own individual way of tracking charge data information. However, we view this as a strength, not a weakness. Each of these systems are manual operations, and are, therefore, adapted to what will work for each individual supervisor. Each of our supervisors functions differently. What might work for one is not necessarily an effective method for another.

Each month supervisors use their individual systems to complete a number of standardized statistical reports which track charge data on the basis of age, size of inventory, individual productivity, unit productivity, percentage of charges over 300 days, settlement information, closure information by statute, etc. (See Attachment I). These reports are also consolidated into major function reports. These management reports provide accurate, reliable charge data information which enable me and my staff to identify trends and other areas of concern, such as EOS productivity, status of PL cases, etc. They are effective management tools.

does not reflect an effective case tracking system

While the Case Assignment Filing System is used by the EOS to manage and control their workload, the same system is also used by supervisors as a management tool. Each supervisor meets on a regular basis with EOSs in the EOS's office and reviews the status of the charges in the Case Assignment File. From these meetings the supervisor establishes timeframes and charge processing tasks to be accomplished by each EOS. This information is recorded.

These assignments and timeframes are based on a full understanding by the EOS and the supervisor of what has been accomplished and what remains to be done. We have found this system to be an effective method for managing the interim phases of the investigative process. The fact that a supervisor cannot tell the exact interim status of a charge picked at random from some 1,200 charges under investigation does not mean that the interim phases of cases are not being managed properly. Supervisors in Chicago District Office are carrying very large unit caseloads. Time is, therefore, best spent meeting with EOSs regarding their cases and what must be done next rather than recording each transaction on a form. The goal afterall is to move cases, and despite a large inventory, Chicago accomplished that in FY 1985.

It should also be noted that in the Director's FY 1984 SES Appraisal, she was praised for "establishing new internal tracking forms ... in order to be responsive to BLI/programmatic goal accomplishments. ... End of the year BLI accomplishments have been achieved as a result of the utilization of various management systems to track cases and monitor workload. ... Recognizing the importance of such management tools the Director has instituted and utilized the above mentioned systems to improve her control over the office's large workflow. Their usefulness is evidenced by the continued high productivity of the Chicago District Office ..." (Element I, 2) The tracking systems reviewed by the audit team and found lacking are the very same tracking systems praised in FY 1984. The system has not changed. It is possible that the audit team did not take into account the working of the entire tracking sytem.

not this year mid-year RCP 48/EOS ECP 25.8/EO

This is not to say we couldn't do it better or faster. We are now in the process of computerizing our charge processing data (like the Phoenix System). We had expected headquarters to be on-line sooner, but since this is not the case we have proceeded on our own. This automated system should enhance our tracking capabilities.

GENERAL FINDINGS OF RAPID AND EXTENDED CHARGE FILE REVIEW

Investigative Plans, RFI's, Logs, Tab Analysis

In April 1985 Chicago District Office conducted a self-audit of 100 case files. That audit indicated that preparation of IPs, RFIs, Logs and Tabs was not generally up to par (Attachment II). Management here viewed that staff was cutting corners in these areas in an attempt to keep up with the inventory. That self-audit report was shared with Region II Programs prior to their audit, and Chicago District Office management had already begun to deal with this concern prior to the arrival of the audit team. For instance, we developed a case categorization system and a case file management system to help staff better handle the inventory instead of cutting corners. We had also totally revised the Document Assembly System to improve the RFIs. Unfortunately, the impact of both of these innovations had only begun to be felt. Further corrective action that has been taken is discussed later in this report.

OPO audit 9/25?

3 to 5 months after OPO audit

FINAL ACTIONS

Negotiated Settlement

The following are our comments on the four settlement agreements which the review did not show to be in conformance with Section 15.3 and Section 15.5 of the Compliance Manaual.

a. Two files are cited - 05184 1422 and 05182 2088 as being cases where there was no copy of the settlement agreement in the file. Our review shows that these 2 cases are not settlement agreements. The attached ledger shows 84 1422 to be a Right to Sue closure and 84 2088 to be a Withdrawal with Benefits closure. It is our opinion that you are talking about 05185 1422 and 05185 2088. These are both settlement agreements. (See ledger cards and letters in Attachment III). Our review of these 2 settlement agreements show:

1. They are both filed by the same charging party.

2. They were settled at the same time with the same agreement.

3. The settlement agreement was contained in charge file 05185 1422.

4. It should be noted that the attached settlement agreement references both charges (In Attachment III). Also note that the ledger cards reference both charge numbers.

b. The finding on 05184 3131 is that there was no evidence of payment of the monetary relief agreed upon in the file and that the charging party and the Respondent had signed the agreement on 8-10 and 8-17-84 respectively, while the District Director had not signed until 1-4-85.

Our review of this file shows:

1. It is true that there is no evidence of the money having been paid to the charging party, however, there is reason to believe the charging party received the money before the Commission was a party to the agreement. This is supported by the fact that the letter of reference cited in your memorandum is dated the same date that the Respondent signed the agreement (See Attachment IV).

2. There is also a memorandum in the file which explains how this agreement came to be signed in January, rather in August. It is also a part of Attachment IV.

c. On file 05182 2889 the review contends that the notice of the charge was served 41 days after filing of the charge. Our review of this file shows the following:

1. The charge was received 5-18-82 (See charge in Attachment V).

2. An EEOC form 131-A - Notice of Charge of Discrimination with Copy of Charge was mailed to the Respondent on 5-19-82 - one day after the filing of the charge. (See form in Attachment V).

3. An EEOC form 131-B - Notice of Charge of Discrimination and Notice of Fact Finding Conference - was mailed to the Respondent on 6-30-82, some 43 days (not 41 days) after the filing of the charge. (See form in Attachment V).

The 131-A form may have been overlooked by the audit team since it was the third document under the 131-B form. The practice in the Chicago office in 1982 was that all charges initially received by the Intake Unit were served with the 131-A form, and the 131-B forms were always sent out prior to a fact finding conference. (A historical footnote to this case is that it should be noted for the record that current top management was not running the office at the time these notices were sent. These forms are now obselete.)

d. The review also noted that some of these files and other files that we have reviewed contained loose material. We agree that this is not a good practice and are taking steps to remedy this.

No Cause

While the audit report states that most no cause files reviewed contained the necessary evidence, problems were noted in four files.

Audit comments regarding 051-85-2058 indicate that the comparative data needed to prove or disprove the allegation of discharge/failure to rehire was not obtained. Although an extensive RFI was sent, in almost every instance that comparative documents were requested, Respondent failed to submit them, alleging burdensomeness. There was not evidence that subsequent action was taken to obtain the necessary data.

We agree that the data should have been obtained. The RFI sent was extensive, and in some instances, overly broad. The RFI should have limited the request for comparative data to employees in the charging party's department. Alternatively, the Respondent could have been asked for a list of all such employees, race coded, and the files could have been examined and documentation on comparative data obtained in an onsite.

Comments regarding 051-85-3853 for this hire/national origin (individual and class allegations) case indicate that: the data needed to resolve the class issues in this "Blitz" case was requested but not obtained, and the file contains no justification for narrowing the scope of the charge; the four Hispanics who unsuccessfully sought employment, identified by the charging party, were not contacted; the national origin of the janitorial staff was not obtained.

The Respondent, U.S. Gypsum, is a very large employer, with three facilities in the Chicago area. This, together with the charge, led to designating the charge for "Blitz" processing, and a correspondingly, and appropriately, broad RFI. When the Hispanic utilization at each of the three facilities was obtained, the supervisor directed that the scope of the charge be narrowed. We note that this is reflected in the August 2, 1985 log entry. (See attachment VI). Information on the makeup of the janitorial staff at the facility in question showed that it was 13 percent Hispanic, a proportion in excess of relevant Hispanic availability, and that of the six (6) janitorial hires in the year prior to the charge, one was Hispanic (16%), one black (16%) and four were white. (See in Attachment VI). In light of this, and the clear evidence that the individual charge was no cause, the fact that the janitorial staff was predominantly Polish did not support class findings. We agree that the national origin of the janitorial staff might have been made explicit; this could have been done based on information submitted. In our view, given the investigative data and analysis outlined above, contact with the four Hispanic non-hires was not indicated.

For charge number 051-84-5512 comments were that: possible class violations in a hiring/sex charge were not pursued; half of the witnesses were not contacted; internal inconsistencies between charging party claims and actual practice, with respect to hiring only from resumes submitted, were not addressed; no information was obtained on hiring policy. The question of whether the charge was closed on its merits was also raised.

We agree that more specific information on hiring policy should have been obtained.

However, the investigation indicated that there was no basis to pursue class allegations. Evidence in the file showed that in the period Janaury 25, to December 21, 1984 there were four male re-hires into the "production" work in question, all hired prior to April 17, 1984. Charging party states she was the only female production employee, therefore, there was no class of females who could have been rehired. Respondent states it has not accepted applications for employment since about November 1981; charging party states Respondent was hiring only from resumes submitted. Examination of the list of resumes submitted for production work shows that only one female submitted a resume in the period January 25 to April 17, 1984. Examination of the actual resumes referred to in the comments shows that of the 130 resumes, 109 were from males,21 were from females. Of these 21, 11 were for office as opposed to production work. Only a handful of the 130 resumes had a date designation so it is not possible to know which, if any, may have been submitted in the January-April, 1984 period when there were four openings. Thus, information is not adequate to support a female class allegation of failure to hire.

There were four witnesses, the four male hires. Two, or half of them, were interviewed. One stated that he contacted the employer about rehire, the other refused to respond to any questions.

The charging party submitted a resume after the decision to hire the four males had already been made.

We believe that the investigative evidence in the file, outlined above, supports the no cause finding.

Comments regarding 051-84-3702 indicate that: this promotion/national origin charge was one of three charges (the other two being hire/race) and that the IM focused on the hire/race charges; since charging party was the only Mexican at the plant the past promotion practices should have been more fully investigated; a more substantial investigation was necessary to support the finding.

Review of the IM indicates it did not focus on the hire/race charges. (See attached copy - Attachment VII). The only reference to blacks was with respect to workforce profile, and to a black employee whose recall rights had run out and who was rehired as a machinist. This was the only instance of this type of rehire other than that which occurred in charging party's claim when a white was rehired as a machinist. This is relevant comparative data.

With respect to a fuller investigation, promotion practices regarding ability versus seniority for openings involving skill were examined for 1983, the year in question, and 1984, including all available records and interviews with relevant personnel. In this case there were so few skilled openings in the two-year period that evidence was not strong. But that was all there was. Since charging party was the only Mexican at the plant, there could not have been other instances of Mexican national origin discrimination which would have been supportive of charging party's allegation.

Cause Cases

The audit team questioned our cause findings in two cases -- Tesko and Wholesale Electric. After carefully reviewing these files, both the District Director and Regional Attorney find that there is reasonable cause to believe that the allegations of discrimination by the individual charging party are supported by the evidence in both cases. We plan to present both to the Commission in the near future.

Regarding Tesko, the dispute concerning why the charging party was not enrolled for insurance coverage was a credibility determination between Charging Party Eugene Mitchell and his brother, Polishing Supervisor Leroy Mitchell. That credibility contest was resolved in favor of the charging party.

Leroy Mitchell is a managerial employee of Respondent Tesko, has worked for them for more than twenty years, and has an obvious motive to testify in favor of his employer. Respondent submitted two statements by Leroy Mitchell. The first is dated May 4, 1984, and merely confirms Eugene Mitchell's allegations: "I Leroy Mitchell say that my Brother Eugene Mitchell was hired as a temporary employee without insurance coverage: [Signed] Leroy Mitchell Witnesses. Barbara J. Skonieczny, J. Skonieczny."

The first statement is handwritten on note paper. The second statement is dated October 16, 1984, is typewritten on Respondent's letterhead, and contains the following statement:

"To Whom It May Concern:
SWORN STATEMENT BY LEROY MITCHELL (POLISHING DEPARTMENT SUPERVISOR @ TESKO WELDING)
I, Leroy Mitchell swear that all statements shown here are correct.
My brother Eugene Mitchell was in town to visit with me for a period of three to four months. He originally lived in Memphis, Tenn. and was going back after a visit.

During his stay with me, I asked my employer, Tesko Welding & Mfg. Co. to help my brother and give him a job for a couple of months. Both Eugene and I told Tesko not to put him on the insurance because he was not going to be here long enough.
To the best of my knowledge Eugene Mitchell was never fired or discharged from Tesko. He went back to Memphis in August and came back to Chicago in early October."

Investigator Kossy interviewed Leroy Mitchell at the office of Respondent's attorney on March 18, 1985, in the presence of the attorney, Aaron Cohen. The investigator's notes include the following: "He [Leroy Mitchell] had 38 blacks working there about 8 years ago. He had to fire them because they wouldn't come to work. Because they wouldn't show up he was working 17 or 18 hours a day. He had authority to hire and fire."

This admission of racial bias by a managerial employee with the authority to hire and fire was considered in the Commission's decision to credit the statements of Charging Party Eugene Mitchell, and not to credit the statements of Leroy Mitchell. Leroy Mitchell also made several statements which were not borne out by the documents submitted by the Respondent. He asserted that he hired his brother on a temporary basis because there were six or seven employees who had six or seven years seniority who were on layoff; the night shift was on layoff.

Similarly, the circumstances of Charging Party Mitchell's discharge are a credibility contest between Leroy Mitchell, who indicates that Charging Party did not wish to return to work, and in fact left Chicago for Memphis; and Charging Party, who indicates that he did wish to return to work and questioned Leroy Mitchell repeatedly about the return. Charging Party's version of events is corroborated by a letter from his treating physician dated January, 1985, a copy of which was sent to the Respondent; by his unemployment insurance documents which indicate a sustained job search in Chicago through the summer of 1985, long after Leroy Mitchell stated he returned to Memphis; by his appearance in this office several times after his asserted return to Memphis, including an interview with the Trial Attorney in March, 1985. Further, records submitted by Respondent indicate that Eugene Mitchell is the only employee terminated by Respondent for the stated reason, "Never Came Back." Thus, Respondent has admitted that no other employees were terminated under the same circumstances.

In reference to the discharge, again, the credibility determination between Charging Party Eugene Mitchell, and Respondent's long term employee Leroy Mitchell, was resolved in favor of Charging Party. This determination was based on documentary evidence corroborating Charging Party's version of events, on Leroy Mitchell's admissions of racial bias, and on a determination from examination of Eugene Mitchell that he was a credible witness.

As regards Wholesale Electric. We strongly believe the audit report to be inaccurate.

First, it ignores evidence supporting the cause finding. The branch manager has admitted that in his meeting with charging party on January 18, 1985, he told charging party she "had only four months left in her pregnancy" and "by leaving now you would be giving me the time I need to hire and train someone else."

The branch manager has never denied this statement, nor did he replace charging party. Rather, he has attempted to justify his statement of "needing more time to hire and train someone else" as an attempt to assuage charging party because she was very emotionally upset at the meeting where he fired her.

The branch manager's articulated explanation, in itself, and when viewed against all the evidence, is irrational. First, if indeed business was slow and his office could no longer justify the employment of three full-time clericals, it would seem that logic would have dictated that the branch manager would have attempted to console charging party with the truth rather than with a lie. Charging party has stated that if the business manager had

told her she was being discharged because of a business slowdown, she would never have filed a charge of discrimination. However, charging party asked the branch manager at their January 18, 1985 meeting if her termination was based upon a business slowdown or her job performance, the branch manager told her "that has nothing to do with it." Charging party confirms the branch manager's admitted statement of "needing more time to hire and train someone else", and further states that during their meeting of January 18, 1985 the branch manager commented "while you're pregnant you're better off at home collecting unemployment compensation."

These admissions of discriminatory motive must be weighed against Rspondent's defense that charging party was discharged because "there was not enough work to keep the three clericals busy."

Indeed, as the audit indicates, the only person who was laid-off as a result of this alleged company-wide business slowdown was charging party. In an effort to determine the validity of Respondent's defense, the Chicago District Office not only requested but subpoenaed Respondent's records supporting the defense. Respondent has steadfastly refused to provide any documentary evidence in support of its layoff defense, and the Commission drew an inference from Respondent's refusal to provide subpoenaed documents. The Chicago District Office considered Respondent's defense as nothing more than a pretext for discrimination.

Moreover, according to Cathy Fenske, another clerical, she notified the branch manager during July, 1985 that she intended to voluntarily terminate her employment. The branch manager asked her to work for an additional six weeks because of the summer vacation period.

Sometime before the six week extension came to a conclusion, and after learning of charging party's pregnancy, the branch manager again asked Fenske to continue her employment. Ms. Fenske agreed to continue her employment but only upon a part-time basis of 32 hours a week. Ms. Fenske stated she worked this part-time schedule from September, 1984 until charging party was terminated during the month of January, 1985. Fenske then asked to and did resume a regular full-time schedule of 40 hours a week. Thus, there was no evidence whatsoever that Respondent was forced to layoff charging party because of a business slowdown.

Moreover, Respondent's credibility is undercut. The branch manager told the Chicago District Office investigator that prior to his January 18, 1985 meeting with charging party, he did not discuss charging party's pregnancy with Fenske or anyone. During the Chicago District Office's investigation, Cathy Fenske stated that two weeks prior to charging party's termination, the branch manager called her into his office and questioned her about charging party's pregnancy.

The branch manager has denied questioning Ms. Fenske regarding charging party's pregnancy. Two weeks following his meeting with Ms. Fenske, charging party was terminated. This sequence of events creates the inference that the branch manager's decision to terminate charging party was indeed based upon her pregnancy.

Based on the above facts and an assessment of all the witnesses' credibility, the evidence strongly indicates that the branch manager is simply not credible and his discharge of charging party was based upon discriminatory reasons.

The audit report raised the concern in both cases what was preceived as the lack of evidence obtained in the file, particularly as regards testimonial evidence. We are criticized for the fact that the testimonial evidence consists only of EOS's handwritten notes rather than affidavits, etc. Certainly affidavits would be preferable. However, these are not always obtainable as was true in this case. Respondents often make oral admissions but refuse to state them in writing. Should we then not value the testimony? Or no cause the case because we don't have everything all neat and tidy? We think not. In some cases, as here, we'll get written verification at the deposition stage and not sooner.

Obviously, neither of these cases are open and shut absolute clear "winners". Both required a judgment call by top management regarding which side to credit. Our judgment, based on all the evidence in the file and not a few selected ones, as well as knowledge of the charging parties was to credit charging parties. Our understanding is that the Commission would rather have us err in this direction than in the other. We credit charging party where possible.

Certainly in cases like these it is understandable that an audit team giving the file a "once over" might differ from our interpretation. After all, we had lived with these cases for months and discussed each many times. Reasonable people will surely differ regarding judgments where the fact situations are not clear cut. We do have some problem, however, when our judgment call, which was different than the audit teams' but nonetheless reasonable to make, is totally discredited and used as a basis to fault the quality of our work. It seems to us that only the judgment of each of the Commissioners should substitute for ours.

Finally, the audit report is accurate in stating that the legal unit does not document their litigation reviews with a memorandum to the file. Instead, face to face discussions between attorneys, EOSs, and management occurs on each and every cause case at frequent intervals. That's how we move cases. In the past, Chicago District Office has been praised for this, and headquarter's staff have used our methods for producing cause cases as a "model" for the rest of the country. If it ain't broke, why fix it?

Unsuccessful Conciliation

The only criticism raised regarding unsuccessful conciliations was that in two files there was no documentation of PDI (05181 1084 and 05184 2505).

We believe that the reviewer is referring to charge 051 84 1084 for the first charge identified.

These two charges were two of five charges alleging unlawful mandatory retirement/age against the same Respondent: 05184 1083, 1084, 1139, 1163, 2505.

While there is no standard documentation of a PDI, each file log shows that each charging party was contacted April 5, 1984, one day prior to EOS recommendation that a letter of violation be issued, requesting the charging party to advise EEOC of an overture from Respondent regarding reinstatement, and counseling him not to enter into any agreement with Respondent. (See attached copies of logs - Attachment VIII).

In this case the existence of the retirement policy, and the fact that it had resulted in mandatory retirement of some of the charging parties, was undisputed. (Attachment VIII - LOD). Thus, no further information was sought from charging parties. They were counseled because the Commission had attempted and was continuing to attempt settlement, which included backpay. Failing settlement, the Commission was prepared to litigate.

Likewise, there had been ongoing verbal and written communication with respondent counsel regarding production of documents, subpoena enforcement and EEOC terms for any settlement. (See attached letters of February 15, March 27, April 2 and April 5, 1985 from EEOC attorney to respondent counsel. Attachment VIII) A letter of April 5 sent by messenger to respondent counsel one day before the recommendation that an LOD be issued set forth the Commission position fully, and clearly indicated that if information were not received by April 6, 1985, an LOD would be issued and, if necessary, litigation would follow.

In view of the above contacts with charging parties and respondent counsel, we believe that PDIs were in effect conducted.

Withdrawal Without Benefit

"Major" problems were raised regarding two case files (051-84-5166 and 051-84-4518).

Comments regarding 051-84-4518 were that 1) although closed administratively, the evidence was flimsy; 2) the IM, being written up prior to withdrawal, was based solely on respondent statements; and 3) while the charging party indicated willingness to work any hours, the IM indicates respondent discharged her because of inflexibility of work hours.

We agree with the reviewer's statement that the IM issue is mooted by the administrative closure. The file shows, however, that the memo was not approved or accepted by the supervisor let alone top management; rather the EOS was instructed to obtain additional information, and requested it. (See attached letter to respondent counsel, December 3, 1984 - Attachment IX) which was followed by a 10-day letter (see attached letter, January 25, 1985 - Attachment IX). Before that material was submitted, respondent called on February 1, 1985 and offered a settlement (see attached copy of log - Attachment IX). Therefore, the assessment of the IM prior to its completion seems premature, and the statement that "the fact remains that this, as well as other cases, often appear improperly concluded or written up largely on the statements of respondents" grossly exaggerated.

The audit report stated that as regards 051-84-5166 there was no charge in the file; the withdrawal statement, "I was informed the Commission could not help me ... because I had no grounds for discrimination" was not supported by sufficient evidence in the file to determine whether the charging party may have been misinformed.

There is an unperfected charge in the file, a letter from the charging party dated August 9, 1984 alleging discharge/sex (pregnancy). The day before she was to report back to work after maternity leave she was told the job had been eliminated. There was no prior notice. (See copy - attachment X.) The intake interview notes, September 18, 1984, show that charging party states she was told by respondent supervisor of personnel that the jobs of all employees on leave of absence for any reason were eliminated. Charging party further states that she knew of other employees on non-pregnancy related leave (e.g. personal, sick) who were also terminated. By giving this information the charging party herself provided the facts that there were no grounds to believe that the discharge was based on sex (pregnancy)!

Failure to Cooperate - Unable to Locate

The review had a problem with one file under this category. The report states "one file, 051-85-1534, was problematic in that after receiving an unperfected charge from the charging party only one attempt was made to contact him before the case was closed." Our review shows the following:

1. Charging party filed an unperfected charge on 11-30-84.

2. Charging party was interviewed, a perfected charge was drafted and it was mailed to the charging party for his signature and returned. A cover letter dated 12-20-84 was sent with the charge, and in it charging party was told that if he did not return the perfected charge or otherwise contact us, his charge would be dismissed for failure to cooperate within 30 days of receipt of that letter. The letter was sent certified mail, return receipt requested.

3. The original letter was not returned. However, the green card was returned. There was no signature on the green card to show to whom it was delivered. However, the letter was addressed to a post office box, therefore, since we received the card we can conclude that the letter was delivered to the post office box. The green card was post-marked 12-27.

We agree that this situation is somewhat problematic. It is problematic in that charging party has a post office box, and the post office did not get charging party's signature as it did when charging party picked up his right to sue letter. However, there is good justification to show that the letter was delivered to the post office box in that the green card was returned to us. We agree that the situation could have been made more clear if an attempt were made to call the charging party to see if he had received the original letter.

No Jurisdiction

The audit reports states that in one case, 051-84-1620, an extensive request for information was made and received before determination of no jurisdiction was made; the evidence on the face of the charge indicated that this determination should have been made prior to the RFI. The face of the charge shows in the first paragraph that charging party alleges he was suspended on 11-24-82 and informed of termination on 9-26-83. The charge was received 1-18-84. Thus, on its face, the charge is clearly timely. Charging party contends that he was not aware that he was in any other status than suspension. It was only after investigation that the EOS learned that the Respondent had proof positive that charging party was notified of his termination the day following his suspension. At this juncture the charge was closed for no jurisdiction. It would have been inappropriate to have dismissed the charge before finding out whether the charging party had told us the complete truth. Attached is a copy of the charge and a copy of the EOS's recommendation (Attachment XI).

State and Local Deferral Cases

We responded to the audit teams findings in a separate report (Attachment XII).

ADMINISTRATIVE MANAGEMENT REVIEW

No Comments.

RECOMENDATIONS/CORRECTIVE ACTION

Administrative and Financial Management Systems

. The audit team suggested that we include case closure and unit transfer codes on the outside jackets of all case files. It is not clear to us, however, what purpose this would serve and if the benefits, if any would outweigh the added staff time that it would take to complete this task on the thousands of charges that are processed here each year. We think not.

. The second recommendation dealt with performance appraisals. Chicago District Office spent a great deal of time at the beginning of this fiscal year developing meaningful GPAD and PMRS agreements. These are now in place. A signed copy of each plan (not the original suggested by the audit team) is located in the personnel files. We decided the originals should stay with the supervisors so that interim reviews, etc. would be properly documented. It would also be quite cumbersome to pass out all the originals each time an interim review is to be conducted. And its useless to have the copies signed because then the original will be deemed incomplete by the next audit team! At the end of the fiscal year the originals - fully executed - will be kept in personnel.

. Chicago District Office has developed a control system for traveler's checks.

Investigative Plans, Logs, Tabs

We have taken several steps to improve our handling of IP's, Logs, and Tabs.

1) Developed and implemented a format for log maintenance and a format for Investigative Plans (Attachment XIII). Please note that the IP format that the audit team referred to in their report was not attached, and subsequent requests that it be forwarded were not successful. Therefore, we developed our own which we think appropriate.)

2) We have held several lengthy "refresher" sessions with staff regarding the proper use of these. See the notes from the first of these meetings held on November 5, 1985 (Attachment XIV).

3. We added these specifics to the GPADs/PMRS agreements in order to clarify that the proper use of IPs, Logs and Tabs is necessary to meet the quality standard.

It should be noted that Chicago District Office had already begun to deal with these problems several months prior to the audit team's visit (see our Self-Audit Report, Attachment II), and that I personally have monitored our performance in these areas (see Attachment XV).

Tracking Systems

Two recommendations were made: redesign a caseload tracking system, and develop a system whereby charges are held in an unassigned pool.

Now that Chicago has computer capability, I am committed to instituting a review of our present charge management system which currently includes everything the audit team wants tracked except for "Interim Investigative Stages" and improving the sytem wherever possible. Assuming that one of the existing EEOC computer data systems can be adapted and put into effect in Chicago prior to the Headquarters sponsored system, we will be able to replace our current manual system. This would enable us to have a system that would save supervisory time now spent on the maintainance of the manual system and would allow them to spend more time in quality supervision of the EOSs and their caseloads. We would expect to put a Phoenix-type system into place sometime in the 2nd Quarter. However, if we are not able to computerize a tracking system it is doubtful that we will be able to efficiently implement the kind of case-tracking (i.e. tracking all interim stages) suggested by the audit team. The amount of paperwork required to keep the system accurate for the hundreds of charges each supervisor must track would virtually guarantee that supervisors would spend most of their time record-keeping rather than meeting with EOSs regarding cases -- certainly an undesireable result.

Second, it was suggested that we consider a charge assignment system where charges would be held in an unassigned pool until an actual EOS assignment is made. This was suggested in part to limit the amount of charges in any one EOS's inventory to approximately 35-40 charges and to schedule times when groups of EOSs would prepare RFIs on the unassigned pooled charges. In our view this proposal would cause more chaos than it would remedy. In Chicago for the Rapid units this would mean that we would have some 1,036 charges assigned (28 EOSs x 37 charges) and an additional 600+ charges in the hold or pool category. The increased number of inquiry calls alone if such a system were adopted would be astounding.

The idea of periodically having EOSs work on the unassigned charges in order to write RFIs is also problematic. This sytem presumes it will be possible to write focused RFIs before an investigative plan is written and before initial investigative contact has been made with the charging party and Respondent. The other implication of this method of writing RFIs is that assignments would not be made on the basis of grade or ability and we would lose a

good measure of EOS accountability. Such a system in our view presents more problems than it promises to resolve. We are hopeful that our Case Categorization and other systems will ameloriate the problem. But the fact remains we are terribly short-staffed, and there will be negative ramifications on the inventory because of that.

State and Local Deferral Cases

Corrective action has already been taken and a separate report made (Attachment XVI).

Compliance/Legal Interaction

The review devotes two sentences to a critique of this office's level of "Compliance/Legal Interaction." The first recommends that we implement "procedures for compliance/ legal interaction on investigation development and litigation worthy review ..." It is frankly difficult, as applied to this office, to take this recommendation seriously. We would have more readily understood -- although respectfully differed with, for reasons explained below -- a recommendation that we implement procedures to prove that there had been interaction in appropriate cases. Your language, however, clearly implies a finding that there has not been compliance/legal interaction. This is simply not the case. Although attorney involvement in developing cases for potential litigation has been a hallmark of Chicago's program for years -- we have been given the clear impression by others that this is widely recognized and appreciated -- we implemented in early FY 85 litigation development strategies calling for even greater measures of attorney/investigator teamwork. Our SWAT and BLITZ programs, created to supplement an already successful ELI program, provided such a high degree of effectiveness that -- to the best our our information -- we were unsurpassed in Region II in the number, balance and quality of our FY 85 litigation recommendations to the Commission. We believe that had the audit team asked any investigator or supervisor of any potential litigation case, he would have learned that there is an extraordinary degree of interaction and cooperation with legal here, that is highly effective and that changed procedures are unwarranted. We hope that you will, therefore, reconsider your recommendation that we implement different procedures.

We particularly ask that we not be required to implement the sort of overformalized and clearly counterproductive traffic in memoranda that is suggested by the second sentence of the recommendation. It has been our observation that few of the offices with highly effective litigation development programs use this cumbersome device for conveying legal advice, while offices wedded to such practices have rarely managed to be very productive in this respect. We particularly applaud the fact that, in the district office from which one your reviewers came, this cover-your-behind memo traffic was recently replaced by a system like ours. At the Directors' meeting in Baltimore, we heard the results of that change: seven litigation cases in nine months under the old system, seventeen in less than three months under the new. We, too, have succeeded in developing litigation precisely because communication between attorney and compliance personnel is constant, direct, face-to-face, providing for instantaneous feedback, elimination of misunderstanding and minimizing of unnecessary clerical work. We understand that there is in this system a lack of a neat paper trail regarding the content of advice given, roles played, etc., and that, therefore, outside auditors are left with the need to take our word for the fact that these contacts go on. But the gains in pursuing the Commission's litigation objectives seem to us to be a small price to pay. In sum, like most Directors in litigation-active offices, I want the lawyers here to be -- as they are -- going with investigators on on-sites, refining RFI's, jointly analyzing evidence, seeing a case many times through its development. I do not want them waiting until too late in the investigation and then writing an elaborate opinion memo, complete with case citations, showing why the case has not been adequately developed. Hence, I request that the requirement for such memoranda be deleted.

Conclusion

Chicago District Office's review of the findings of Region II's audit report indicates:

1) the need for Chicago District Office staff to more closely adhere to procedures regarding Investigative Plans, Logs and Tabbing;

2) that top management here had already identified the problems raised regarding IPs, Logs and Tabbing, had analyzed the causes for the problems, and had taken corrective action prior to the Audit Team's visit;

3) that many of the conclusions made by the Audit Team regarding the quality of the actual investigations and cause closures were faulty at best, grossly distorted at worst; few cases in fact were improperly handled;

4) that the Audit Team's conclusion that this office should be viewed as having failed the quality standard is not substantiated by the facts; and is unfair to staff here who are concerned with quality as evidenced by the kind of cases we are presenting to the Commission and which are consistently praised for their quality.

5) that the Chicago Office met the quality standard in FY 85 and in order to exceed the standard in FY 1986 Chicago District Office will need to improve its use of IPs, Logs, and Tabs.

6) that many of the suggestions made by the Audit Team to improve our operations were useful and have been adopted; that others are not workable and were made based on erroneous assumptions about the office.

There are several other issues of concern to us. One is that we regret that the Audit Report was not forwarded to us until the fiscal year had ended, and appraisals had been completed, despite the fact that the bulk of the audit had been completed in July. The fact that we were then given only three weeks to respond was a bit exasperating, to say the least. Obviously, it has taken us longer to respond since our review required reviewing every case the auditors had commented on. But, in any case, it would appear that our response will not have an impact on how this office is rated or how awards are handled. This is unfortunate as we would have hoped that the system worked in such a way that our response would have been the basis for a reconsideration.

We are also concerned that this Audit Report took us by such surprise. At the close out meeting in July we were under the distinct impression that while Headquarters had some concerns about IPs, tabs, etc (the neatness and audit trail issues), that there was never a question about the quality of our final work product.

Finally, we wish to raise the "defensiveness" issue addressed in the Audit Report. We regret that the Director's and Deputy Director's reaction to the audit team's close-out presentation appeared "defensive". We did not feel defensive. Rather we were deeply insulted not only by much of the content of the presentation but more by the approach the team members used to convey their findings. We felt treated as if we were incompetent, non-committed staffers who because we did not agree with each of the auditor's findings and recommendations were considered non team-members. At no time during the close-out meeting did we feel that any one on the audit team was trying to be really helpful, or that we were all on the same team. But that is water over the dam. We regret any contribution we may have made to making that meeting so unpleasant. In the future, we will change our behavior.

TO : JAMES PACKWOOD

FROM: RALPH SOTO

SUB : K. BLUNT'S RESPONSE TO FY-85 FIELD TRIP REPORT

1. Investigation Plans:

The field trip report reflects that:

a. investigation plans were not being prepared in accordance with the guidance found in section 22 of EEOC Order 915;

b. often, the documents examined did not focus on witness testimony and contained no evidence of supervisory review; and

c. no investigation plans were found in 21 charge files.

The response to the field trip report does not contest these findings.

2. Requests For Information:

The field trip report reflects that:

a. we noted several RFIs containing numerous duplicative requests for information;

b. in two cases the RFIs either failed to or did not adequately address the issues under investigation;

c. in three cases the RFIs were missing from the files;

and

d. there was a significant reliance on the use of list generating clauses, instead of requesting copies of the documents containing the needed information.

The response to the field trip report does not contest these findings.

3. Log Of Investigative Activities (i.e. EEOC Form 159):

The field trip report reflects that in most case files, the log was virtually useless as a tool for tracking the processing or general identification of cases as prescribed in section 67.1 and 67.2 of EEOC Order 915. Specifically, we found that the logs:

a. failed to identify the processing unit, the charge name and number, the date(s) on which the IP and RFI were prepared, the date(s) on which the RFI was mailed, the date(s) on which respondent's data was received, and/or the date(s) on which the recommended finding was submit ted for supervisory review;

b. in many instances, contained erroneous dates when reconciled against the documents in the file;

c. did not identify supervisory and managerial review and approval at appropriate stages of the investigation process; and

d. were frequently illegible.

The response to the field trip report does not contest these findings.

4. Tab Analysis:

The field trip report reflects that in most of the charge files reviewed, there was no evidence of tab analysis. The analysis that was present in select files was of poor quality and did not appear to be used effectively to support the investigation.

The response to the field trip report does not contest these findings.

5. No Cause Cases:

a. In Weeks vs. Illinois Institute of Technology (No. 051-85-2058), the field trip report indicates that the comparative data needed to resolve the dispute was not obtained. An extensive RFI requesting the needed information was submitted to respondent, however, in almost every instance that comparative documents were requested, respondent failed to submit them alleging that the request was too burdensome. Additionally, there was no evidence in the file that subsequent action to obtain the needed data was ever taken.

The response to the field trip report does not contest these findings.

b. In Gutierrez vs. U.S. Gypsum (No. 051-85-3853), the charging Party alleged that respondent discriminated against him and Hispanics as a class, with respect to hiring. The field trip report indicates that:

1. the data needed to resolve the class issue, although requested, was never obtained;

2. the file evidences no conscious intention or substantive justification for narrowing the scope of the investigation, which is particularly disturbing in light of the fact that 77% of respondent's janitorial staff is white and predominantly Polish; and

3. although, the charging party provided the names of 4 other Hispanics, who unsuccessfully sought employment with respondent, there was no evidence in the file that an effort was made to contact these persons.

In the response to the field trip report it is argued that:

1. when the Hispanic utilization rate at each of respondent's 3 facilities was obtained, the supervisor directed that the scope of the charge be narrowed and this was noted in an 8/2/85 log entry;

2. the information on the makeup of janitorial staff showed that it was 13% Hispanic, a proportion in excess of the relevant Hispanic availability;

3. of 6 janitorial hires in the year prior to the charge 1 was Hispanic, 1 was Black and 4 were White; and

4. given the above it was unnecessary to contact the 4 witnesses named by the charging party.

The log note referred to in item 1 above, which incidentally is almost illegible, directs that the scope of the investigation be narrowed with respect to the facilities to be investigated, it does not narrow the scope of the investigation by limiting it to only the individual harm alleged. The relevant section reads, ".. do not investigate U.S. Gypsum, just investigate 101 S. Wacker Co. Division of U.S. Gypsum. (See attachment ____, EEOC Form 159 and the RFI issued).

With respect to the assertion that the makeup of janitorial staff (13% Hispanic) was in excess of the relevant Hispanic availability (i.e. in item 2 above), we note that there is no indication or discussion of what constitutes the "relevant Hispanic availability" either in the response to the field trip report or the investigation memorandum. (See attachment___, Investigation Memorandum).

With respect to the 6 janitorial positions filled in the year prior to the charge (i.e. item 3 above), this information may be correct. However, since no comparative information was obtained regarding the number, national origin, and race of the applicants for these positions, its probative value is severely limited, if not highly questionable. Additionally, w note that the source of this information was respondent's position statement, since respondent consistently failed to submit copies of requested documents.

The final assertion (i.e. that given the data, it was unnecessary to contact the 4 witnesses named by the charging party) does not withstand close scrutiny, since the data that was obtained is at best incomplete and of questionable validity.

6. Cause Cases:

a. In Mitchell vs. Tesko (No. 051-85-0016), the charging party alleged that respondent discriminated against him by hiring him as a part-time temporary employee instead of a full-time employee, by denying him insurance benefits, and discharging him due to his race, black. The charge also alleged that respondent discriminated against blacks with respect to hiring. In addition to addressing other related matters, the field trip report indicates that the evidence does not support the cause finding on the individual issues. Specifically:

1. the evidence does not resolve the dispute regarding why the Charging Party was not enrolled for insurance coverage;
2. no evidence was obtained which supports the cause finding on the discharge issue;
3. although the evidence indicates that Respondent destroyed application data after it was notified of the existence of the charge, the finding did not address this technical violation;
4. necessary information, although requested, was never obtained by the Office and there was no documented attempt to subpoena the data; and
5. there was no record in the file documenting the substance of the litigation worthy review.

Regarding the dispute concerning why the Charging Party was not enrolled in Respondent's insurance program, the response to the field trip report argues that the individual harm determination was a "credibility determination" between the Charging Party and his brother, a Respondent supervisor, which was decided in favor of the Charging Party. Specifically, the following arguments are made:

1. the Charging Party's brother is a management employee who has worked for Respondent more than 20 years and has a motive to favor Respondent;
2. the first statement submitted by his brother merely confirms the Charging Party's allegations (i.e. "... LeRoy Mitchell say that my brother Eugene Mitchell was hired as a temporary employee without insurance coverage");
3. the second statement submitted by Charging Party's brother was typewritten on Respondent's letterhead;

4. his brother stated that he had thirty eight Blacks working there about eight years ago and he had to fire them because they wouldn't come to work (i.e. this is an admission of racial bias); and

5. his brother's assertion that he hired the Charging Party on a temporary basis because there were six or seven employees on layoff, was not borne out by the evidence.

The conclusion drawn from the fact that Charging Party's brother was a management employee is pure conjecture. By employing this type of reasoning, any and all testimony provided by respondent witnesses is to be summarily dismissed. There is no inconsistency in the brother's two written statements and neither of them confirms the Charging Party's allegations. The first statement merely indicates that the Charging Party was hired as a temporary employee without insurance coverage. It does not address the issue of whether he was denied coverage by the Respondent. The second statement expands on the first by indicating that both the Charging Party and his brother requested that Respondent not enroll the Charging Party in the insurance program because he was not going to be there long enough. (See attachment___, October 16, 1984, statement form LeRoy Hitchell). With respect to the brother's alleged admission of racial bias, the obvious facts (i.e. that the Charging Party was hired by his brother, who needless to say is also Black) indicate that the alleged racial bias was not in operation were the Charging Party was concerned. Finally the assertion that the brother's statement (i.e. regarding employees on layoff) was not borne out by the evidence is interesting and deserves some attention, because it demonstrates what appears to be a conscious attempt to present information in such a fashion as to be misleading. On its face, the statement is true. However, the reason that the brother's statement was "not borne out by the documents submitted by the Respondent" is that although the Office requested information from Respondent relating to these employees, it was never obtained by the Office. Therefore, the inference that the reader is supposed to draw from reading the response (i.e. that evidence relating to these employees was actually examined) is clearly misleading. (See the second item #1 on Page 8 of the Field Trip Report).

The response also argues that "...the circumstances of Charging Hitchell's discharge are a credibility contest between LeRoy Hitchell, who indicates that the Charging Party did not wish to return to return to work, and in fact left Chicago for Memphis; and Charging Party, who indicates he did wish to return to work.". Credibility was decided in favor of the Charging Party because:

1. a January 1985, letter from Charging Party's physician corroborates Charging Party's version; (note: a copy of this letter was not submitted)

2. Charging Party's unemployment insurance documents indicate a sustained job search in Chicago through the summer of 1985, "long after LeRoy Hitchell stated he (Charging Party) returned to Memphis.";

3. Charging Party appeared in the Chicago District Office several times after his asserted return to Memphis, "....including an interview with the Trial attorney in March, 1985.".

These "credibility arguments" reflect a skewing of information which is evident throughout the Chicago response. The first thing to note about the above arguments is that they relate to events which presumably reflect the Charging Party's wishes in 1985, not in August of 1983, when the Charging Party was hired; not in January of 1984, when the Charging Party was injured in a car accident; and not in May of 1984, when Respondent

alleges he was taken off of the payroll. In item #2 above, the attempt to discredit the brother's statement by referring to events occurring in 1985, at best, reflects a loose grasp of the facts. If you refer to the brother's October 16, 1984, statement you will note that it indicates that the Charging Party returned to Memphis in August (presumably 1984) and came back to Chicago in early October (presumably 1984). There is no contradiction. Chicago's management, nevertheless, demands that we take its reasoning seriously when it is asserted that Charging Party's job search in the summer of 1985 was"...long after LeRoy Mitchell stated he (Charging Party) returned to Memphis.". Yes, it was "long after LeRoy Mitchell stated he returned to Memphis", however, management neglects to mention that he also stated that the Charging Party returned to Chicago.

The Chicago response does not contest the finding that it neglected to address the technical violation (i.e. Respondent's destruction of records) in its determination.

With respect to our finding that there was no record in the file documenting the substance of the litigation worthy review (i.e. which identifies the evidence needed for a prima facia case, identifies the evidence obtained, identifies any additional evidence needed to support a cause finding, contains a discussion of the reasons and case precedents supporting the legal opinion, and contains a final summation in which concurrence or nonconcurrence is indicated), it is admitted in the Chicago response that the legal unit does not document their litigation reviews with a memoranda to the files. However, the Office management argues that this is a "cover-your-behind memo", designed to "prove" that there has been interaction in appropriate cases;"..that instead face to face discussions between attorneys an management occur on each cause case at frequent intervals.

The documenting of the litigation worthy review is not intended to be a substitute for face to face discussions between the legal and compliance functions. It is an evidentiary review which:

1. provides the Office Director with a written analysis of the file and a recommendation;

2. provides a useful source of feed-back information for the compliance function; and

3. is the first step in the preparation of a presentation memorandum, should a conciliation efforts fail.

It should also be noted that the Office's current practice is contrary to the requirements of section 40.3 (b) of EEOC Order 915, which specifies:

> "The RA will provide the office Director with a written analysis of the file and recommendation.".

Finally, judging from the evidentiary problems note in this case and the Wholesale Electric Case (which is discussed below), there is a demonstrable need for such a procedure in the Chicago Office.

b. In Collins vs. Wholesale Electric (No. 051-85-2839), the Charging Party alleged that Respondent discharged her because she was pregnant. In addition to addressing other related matters, the field trip report reflects that the evidence of record does not support the cause finding. Specifically, the report indicates that:

1. the evidence of record does not overcome the undisputed evidence that there was not enough work to keep three clericals busy; that the Charging Party was the least senior of the three clericals; that the Charging Party was not replaced after her layoff; and that Respondent knew of Charging Party pregnancy approximately five months before she was laid off;

2. the entire body of substantive evidence in this case is testimonial, none of which has been preserved (i.e. the file is devoid of notarized, signed, other credible forms of witness statements and there was no evidence in the file that an attempt was made to preserved the evidence); and

3. as in the Tonkp case, there was no record in the file documenting the substance of the litigation worthy review.

In the response to the field trip report, another "credibility" argument is presented in defense of the cause determination. Specifically, it is argued that:

1. Respondent branch manager admitted he told Charging Party that she "had only four months left in her pregnancy" and "by leaving now you would be giving me the time I need to hire and train someone else.";

2. the branch manager never denied this statement, nor did he replace the Charging Party;

3. the branch manager justified his statement as an attempt to assuage the Charging Party because she was emotionally upset; if business was slow, he should have consoled her with the truth rather than with a lie; and

4. that Respondent's credibility is undercut because he stated that prior to his 1/18/85 meeting with the Charging Party, he did not discuss Charging Party's pregnancy with anyone, however, Charging Party's sister-in-law states that she was questioned about Charging Party's pregnancy by the branch manager two weeks prior to her termination.

The branch manager's statement referred to in item #1 above reads as follows (as recorded in the investigator's hand-written notes):

"On or about January 17, 1985, because of lack of work he told CP he had a business decision to lay her off. CP broke down and started to cry. In sense of counseling Reczek told CP that she had only 4 mts. left in her pregnancy. He used the statement of hiring and training another secretary as an empathy statement to stop her crying. It was never intended to hire someone else and no one has been hired.....He did tell CP she was being laid off because business was slow due to lack of work."

In order to accept the Office's credibility argument, we must ignore a series of inconsistencies in the position the Office has taken, the contradictions in the evidence, and the fact that none of the testimonial evidence is admissible in court. Specifically, the argument:

1. requires that we accept that part of the branch manager's statement which arguably may be construed as evidencing a discriminatory motive, but requires that we ignore that part of his statement which attempts to explain his statement (i.e. he was trying to stop her from crying.... he never intended to hire someone else) when the undisputed evidence is that the Charging Party was not replaced and, therefore, in part, verifies his explanation;

2. requires that undisputed evidence be disputed; on at least three occasions, the Charging Party indicated that business was in fact slow; in a 5/7/85 interview, the Charging Party stated, "There was not enough work for 3 girls. Enough work when she started but not enough when she was fired.";

   this is consistent with her sister-in-law's testimony that "In the beginning there was enough work because of Fenshe (the sister-in-law) training CP and because computer was being installed. In beginning of November things really slowed down and stayed that way until CP's termination. There was no work to do in the afternoons for (illegible) of the 3 secretaries."; and

3. requires that we ignore the fact that Respondent knew of Charging Party's pregnancy shortly after she was hired, but did not lay her off until approximately five months after she was hired.

With respect to the preservation of evidence issue, the response to the field trip report narrows the issue to affidavits and summarily dismisses our findings by indicating that affidavits are not always obtainable.

Our review of this case indicates that there was no evidence of an effective attempt to preserve any of the testimonial evidence. In the one instance where a witness's testimony was taken under oath in response to a subpoena, the only document evidencing this testimony is the investigator's notes which are of questionable reliability. To illustrate, one paragraph of the "recorded" testimony of this witness, Charging Party's sister-in-law, reads in part:

> "Fenshe told him (Mr. Reczek) that she did not think that CP was coming back after the baby. Fenshe told Reczek that CP was coming back after the baby. Fenshe told Reczek that CP had told her that she was not coming back after having the baby. She told him that he better check it out with CP herself.".

7. State and Local Deferral Cases:

a. FEPA Additional Credit Reviews:

With respect to the awarding of FEPA contract payments for other than completed charge resolutions, the field trip report reflects that the Office was not in compliance with the requirements of section 4 of EEOC Order 916, Appendix A. Specifically, Appendix A authorizes the payment of contract credit under specified circumstances (e.g. such as when a charging party requests that EEOC issue a Right to Sue Notice on a deferral case) if the FEPA has conducted a substantial investigation or completed its investigation, depending upon the section authorizing payment, by a specified time (e.g. at the time EEOC issues the Right to Sue Notice). The field trip report reflects that:

1. In six files where payment was authorized, there was no documented evidence that the FEPA had conducted a substantial investigation;

2. in a seventh file, the FEPA had submitted documentation, however, there was no evidence in the file it was ever review before payment was authorized;

3. the long standing practice in the Office has been to call the FEPA and inquire whether a substantial investigation had been conducted and if the response was in the affirmative, credit was awarded without a review or submission of the FEPA documentation; and

4. the Office has awarded contract credit under other circumstances not authorized by EEOC Order 916.

The response to the field trip report does not contest these findings. Furthermore as a result of our findings

the Chicago District Office was required to audit all FY-85 additional credit actions and rescind all improperly authorized contract credits. In the Office's November 26, 1985, response 36 improperly authorized credit actions were identified and rescinded. This represents a recovery of $14,400 in federal funds. Forty other files have been identified which potentially fall in the same category as the cases where contract credit was rescinded. A sample of these cases will be reviewed on

our next field trip to the Chicago Office. (See the attached November 26, 1985 memorandum from K. Blunt and my memorandum to Joseph Bennett for details).

b. In examining the above cited State and Local files, it was also noted that rather than issuing the requested Right to Sue Notes in the State and Local function, the Chicago Office routinely transfers these cases to the Rapid function for closure. The subsequent closure actions are, therefore, reported as Rapid closures. Since there is no programatic justification for this type of procedure, it appears that the intent may be to inflate RCP productivity figures.

In the Chicago November 25, 1985, response to this finding, the management of the Office expresses moral indignation with respect to this finding and indicates that the transferring of these cases to the Rapid function was done to expedite processing and better serve the charging parties.

However, this explanation does not withstand close scrutiny. Instead of using clerical help from other units to prepare the necessary paperwork and returning the files to the State and Local function for coding, management chose to transfer the charges which results in the creation of additional work (i.e. coding actions sending the files to RCP and corresponding receipt codes, manual reporting actions on case tracking forms, unit inventory forms and EOS assignment forms, etc.) and higher production for the Rapid function. Furthermore, from the date of transfer to the Rapid function to the date of closure, it took a total of 278 days to close the 19 cases which the Chicago response identifies as being improperly transferred or an average of 14.64 days per charge. This does not sound like it was done to

expedite processing and better serve the charging parties.

Although the Chicago response identifies 19 cases transferred to the Rapid function for the issuance

of Right to Sue Notices, a sampling of closure actions coded 2250 and 2350 (i.e. Right to Sue issued at charging party's request) on the CSRS terminal revealed 17 closure actions not identified in the Chicago response, which are likely to fall into the same category as the 19 cases. The the coding sequences in these other 17 cases reveals a pattern in which an additional contract credit is awarded in the State and Local function, the charge is then transferred to the Rapid function and within a relatively short period of time (i.e. one month or less) the cases is closed with the issuance of a Right to Sue Notice at charging party's request. A sample of these 17 files and another 6, containing a the same coding pattern but a longer time lapse from the date of transfer to the date of closure, will be reviewed during the next filed trip to the Chicago Office. (See the Chicago November 25, 1985 response and my memorandum to Joseph Bennett for details).

c. State and Local No Jurisdiction Reviews:

The field trip report also noted that in two cases in which the FEPA no jurisdiction findings were accepted, the files and the corresponding ledger cards indicate that at the time contract credit was awarded for the closure actions, the District Office had not yet received the documents necessary to make a determination that the closure actions were in accordance with EEOC's requirements. In charge number 051-84-3604, credit was awarded on 1/31/85, however, an EEOC Form 214 in the file dated 3/29/85, indicates that the required documents had not yet been received.

The Chicago response to the field trip report does not address these findings.

UNITED STATES GOVERNMENT

Memorandum

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
SEATTLE DISTRICT OFFICE

TO : James Troy, Director
Office of Program Operations
John Seal
Management Director

DATE: November 14, 1985
In reply refer to:

FROM : Donald W. Muse, Director
Seattle District Office

SUBJECT: Charge Data System (CDS)

There have been drastic changes made in almost every concept of the C.D.S. system. Almost every principle has been changed unilateraly, so that the system being furnished is of little more value than the CSRS system now in place. There has been no effort by I.S.S. to keep O.P.O. or the CSRS Redesign Group informed of these major changes, as outlined in this report. Since I left Headquarters in March of 1985, 8 months ago, I have not received any contact from anyone verbally or in writing regarding the C.D.S. system, even though the CSRS Redesign Group was designated by John Seal to "provide advise and consultation, as well as testing support and assistance to the system implemented during the period 3-15-1985 to 10-01-1985. Assistance in post implementation audit and evaluation during the period 10-01-1985 to 4-01-1986." Attachment #1

DISTRICT OFFICE CONTROL OF DATA

The primary requirement of the new Charge Data System is to provide local district office control of its own data. This absolute requirement would provide local district office control to store and manipulate its entire district office's data as the primary user. The CSRS Redesign work Group, mandated to determine the users interests, compiled the functional requirement document (users manuals) in furtherance of this local district office control concept. It is the major requirement of the voluminous CSRS Redesign study. At this time the present or future implementation of the C.D.S system does not provide local district office control as outlined in the functional requirement document, in that Data imputed by the EEOC Local and area offices and the 706 deferral agencies will be stored on the mainframe in headquarters and not in the field offices. The data will not be stored or available for use locally as planned even though the data is of primary interest and use only to the district office.

SYSTEM SPEED

The first version of the CDS system that we were furnished for testing was extremely slow. We were told that the updated version that we are currently testing is utilizing a faster version of FILEPRO 16 PLUS. We have also been provided an additional 512k of memory, boosting the size of memory on our mini-tower to 1MB. Our expectation had been that these improvements would noticeably increase the processing speed of the system.

While we have noticed some improvement, the system is still too slow--especially when two operators are using the system at the same time. Inquiries of Charge data are actually faster on CSRS than on the present CDS! Evidently the earlier opinion expressed by the Federal NCR representative that we would need at least 1.5 to 2.0MB of memory and a high performance I/O board to make it feasible to operate the system in a multi-processing environment was accurate. The system improvements furnished to date are therefore inadequate.

DATA TRANSFER PROBLEM

The case transfer system via a Headquarters based Collection Manager appears to be seriously in jeopardy. The Collection Manager program is still not in place--although the field testing of this program was to have been completed by March 31. Now budget constraints are raising the liklihood that hardware necessary to the transmission of data will not be able to be furnished to field offices and related FEPAs. Obviously, if this happens, each District Office will be left to its own devices as to how to prepare and forward needed statistical data to Headquarters.

This is essentially one of the major drawbacks of CSRS which this system was supposed to eliminate and which has resulted in many District Offices going their own way to develop systems which will provide needed statistical and management data. Examples of this are San Francisco with their DBase system, Phoenix with PXCIMS on RBase, and Seattle with its SMART based CBase system.

In view of this one would have to question the logic and propriety of the massive expenditures of money in the development of CDS not only for contractor time but also that hidden and often overlooked cost, the salaries of the many EEOC management and staff personnel involved in designing and testing CDS to date.

UNPREDICTABILITY OF COSTS

Furthermore, we would question the wisdom--even the need--of the establishment of a National Data Base with all case information which requires the utilization of a large, privately maintained mainframe system at Martin Marietta. For one thing, most of the data which will be on this National file is of no practical use to Headquarters. The statistical data needed by Headquarters, could just as well be queried off a local data file by Headquarters at any time it was needed in whatever form it was desired. And at what cost will this National file be maintained? Considering the recent RAMCUFFS disaster which was likewise based on the Martin Marietta mainframe and which came tumbling down under the weight of its costly operation, aren't we likely to suffer the same result with CDS?

The expense of having the 706 agencies, area and local offices input and retrieve information directly to and from the National Data base and not from a data bank maintained at the local district office level is not only unpredictable but in our estimation would be so costly that both District Offices and 706 Agencies would vigorously avoid accessing the file. This point was admitted during CDS training by both our own ISS staff and CACI as being something that field offices and 706 Agencies might want to do very infrequently.

Further, if the cost of the volume of transactions at the mainframe were to exceed the funds budgeted, access to the data base could be expected to be terminated.

SHUT DOWN CSRS AND CDS

CSRS has never provided useful information to the field and the way development is proceeding on CDS it appears that system won't either. Report generation with the pilot test model of CDS is far from complete. Not only are some of the currently developed reports non-functional but also 396 data is completely lacking.

On December 10, 1984 the Chairman issued a mandate that CSRS be scrapped and replaced with a system that would work to save time and cost and provide timely and accurate information.

Considering current (and probable future) budget constraints in the light of Graham-Rudman and funds that have been wasted to date on CDS and that are likely to be wasted if development continues, it is our position that the CDS project should be scrapped immediately. So should CSRS because continuing to spend time and money to input information and maintain the database is tantamount to throwing dollars into a black hole.

Local offices together with their 706 agencies would then continue to develop their own systems of case tracking and statistical and management reporting. Manually prepared reports would continue to be sent to Headquarters and other needed data could be furnished on request.

This would appear to be a much more cost-effective approach, spare us the specter of a budget gobbling monster and at the same time establish and reinforce local accountability and control along already established functional lines.

It's time to take a bold step backwards in the interest of conserving precious funds. Several offices have already proved their ability to develop effective local data systems providing accurate and timely tracking and management information. This could be expanded on nation-wide at great cost saving to the Commission.

UNITED STATES OF AMERICA
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November 14, 1985

IN REPLY REFER TO:

MEMORANDUM

TO : Francisco J. Flores Jr. Director
Region III Programs, OPO

FROM : Hermilo R. Gloria, Director
Phoenix District Office

SUBJECT: Summary of Discussion on CDS/FilePRO with Information Systems Services Staff

I met with Rick Kushurba, Leo Sanchez, and Steve Posniak to discuss CDS and FilePRO with a representative from Small Computer Company, John Esak. The meetings were held on Monday September 23 with Rick Kushurba, and on Tuesday with Kushurba, Leo Sanchez, Steve Posniak and Esak. The representative from the software company discussed FilePRO with us as it relates to the version to be provided with CDS. The following is a summary of the information provided to me :

1. CDS - We discussed at length HQS concern over any tampering with the National Data Base structure (NDB). I was also informed that there will be no further changes in CDS design. The Intake screens have been redesigned to clear up some of the problems that we had raised, amd the charge number will be entered in the first screen, with only four screens being used for the Intake process. The screen dealing with Federal referrals will remain. To meet the need for numbering FEPC charges, a new system has been designed that will use an allocated number to identify the FEPC agency and the responsible EEOC office; e.g. for ACRD, we would use 35A-86-xxxx, for UADD we would use 35B-86-xxxx, for NMHRC we would use 35C-86-xxxx. The Office I.D. for Phoenix would be 350, for Albuquerque it would be 351. I was not given any date for start up of this new numbering system, which may be an administrative problem in FY1986. There are no plans for data transfer and queries between District/Area Offices and FEPC agencies. All requests for information on 706 charges will have to go through NDB.

This system will allow for local data base manipulation, and for local creation of additional fields, although the main recommendation was to try the system as is, and submit any changes or concerns to Kushurba for possible incorporation into future versions of CDS as appropiate. The main stress of the discussion was to make sure every time that NDB is not affected by the proposed changes at the local level.

since the initial version of CDS does not include any automatic processing of forms or Intake procedures, we should be able to have a quick startup. However, I am concerned over the memory requirements of CDS, and the existing 10 mb on Albuquerque's PC/XT may not be enough. In addition, the pilot program will demand exclusive use ofthe XT, leaving Albuquerque without word processing capabilities other than their old Linolex, which has some operational problems. We may need an additional PC for the area office. In addition, I insist on running PXCIMS as a parallel system until we work out the bugs in CDS. This may also seriously impact the memory capacity of the XT. I would recommend the purchase of a 20 mb hard disk as soon as possible,both for the pilot program and for operational use of CDS. I plan to lobby for the additional PC during my visit.

As a result of my discussions, some of my concerns have been answered. However, I am concerned that the first version of CDS may be limited by some of the inherent design decisions. I am still concerned over the proposed method for handling FEPC charges through NDB. My overall concerns probably will not be fully answered until we try the system. My concern over FilePRO has been somewhat resolved also, although I need to see the final version that will be used with CDS. I will keep you advised of the progress of the pilot program. I also hope that CSRS is finally laid to rest on October 1, 1985. I remain a pessimist about CDS and I expressed my doubts to Kushurba. I do not feel that Field considerations are paramount in CDS, but that the push is for the archival data in NDB. I am also concerned over some of the problems that CACI has not resolved, such as efficient memory/hard disk management and the promised LAN capability to efficiently use our PCs as part of the entire system. I will give you quick feedback on the progress of the pilot program, but there is major concern over trying to train the field staff in January on a system that is not complete and debugged. That has already happened with CTS and we wasted money and resources that we could ill afford to lose. I do not intend to remain very quiet on CDS if it does not work any better than PXCIMS. I am also very concerned over the hardware limitations in memory and in backup facilities. Let me know if there is any chance of convincing Seal to review CDS decisions before we give CACI full acceptance on their contract performance.

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November 14, 1985

MEMORANDUM

TO: James Troy, Director
Office of Program Operations

THROUGH: Francisco J. Flores Jr.,Director
Region III Programs,OPO

FROM: Hermilo R. Gloria,Director
Phoenix District Office

SUBJECT: Comments on Status of CDS,November 8, 1985

I had promised to provide you with comments on CDS after having the opportunity to try out the demonstration system at our meeting at Baltimore. This memorandum includes those comments as well as additional observations after the installation of the CDS package in Albuquerque. I have also attached a copy of my memo to Paco after my visit to Headquarters at the end of September, since some of my comments at that time are still viable.

My comments are based on my ongoing concern that CDS is being installed in order to meet deadlines, and not on the basis of having a system ready to pilot and demonstrate. The present CDS is incomplete even for pilot program use. There is still no real definition of transfer methods from the local data base to the National Data Base. There are serious ommissions which affect the field operations including:

1. Absence of source coding to identify FEPC charges and to delineate EEOC TO PROCESS and FEPC TO PROCESS workload. This omission in the software affects our deferral and referral processes, and may impinge on service of the the charges taken by FEPC, as well as possibly affect the rights of charging parties.

2. Incomplete software systems which lack any case tracking and management provisions for the field. The only real operational part of CDS is the Intake portion which allows us to complete the equivalent of a Form 155. The proposed method for data entry using help screens is not well thought out, and may lead to substantial errors.

3. A software system that lacks real scan and browsing routines that would allow the field to print ad-hoc reports and listings in a manner analogous to RBASE.

4. A system design flaw which cuts off direct interaction between the field offices and the FEPC agencies. All transactions must go through the National Data Base, which will cut off our ability to monitor charge quality and to ensure that worksharing agreements are being followed. Since the Charges must be entered through the NDB, EEOC copies of FEPC charges will not be readily available to the NDB until the data transfer system is finalized. We cannot incorporate a manual system of FEPC charge entry since we lack the source codes as noted above.

5. A new charge numbering and transaction coding system which if implemented in mid-year may cause serious operational problems for the field, both in tracking cases through the system as well as the absence of a good audit trail to ensure proper case processing.

The other major problem is with the Area Office software. Along with the problems noted above, there may be serious memory problems with the PC-XT equipment that has only 10 mb capacity. Based on the experience in Jackson and Albuquerque this week, we may have to purchase additional equipment to accomodate CDS as presently designed. Moreover, there has been no thought given to creating a truncated version of CDS for Area Offices and Local Offices that do not require all the data elements and software provisions (e.g. Hearings, Legal, FAA...).

As is clear from these comments as well as my previous comments to Paco in the attached memo, I have serious misgivings about CDS in its present form. Two immediate suggestions are apparent:

a. Delay the Pilot startup until we have a real operational software package that will test data entry into both the local and national data bases. Based on past experience SSI could probably have the package ready by December.

b. Limit any training to the Pilot Offices, and delay the proposed nationwide training till March. This would give the Pilot programs a chance to identify major operational problems so we do not repeat the CTS training fiasco.

I also strongly urge that CACI and FilePRO contractors be made aware of the obvious shortcomings of the system. We need to make CDS a viable interactive system, or the field will assume that we are doing CSRS all over again. I have serious problems with the amount of data being tracked which really belongs to the field. If the system design repeats all the prior design errors of CDS, particularly in trying to track and control the processing of our charges, Directors will not buy into the system. My conversation with other Directors at Baltimore made that point loud and clear. I also do not want to buy into a system that has less capacity for management than my current system.

One final point regards the conversion of CSRS data into CDS format. I strongly urge that we do reconciliation of data in the following steps:

1. **Define a cutoff date for CSRS and require all data entry to be completed by a rigid deadline.**

2. **Produce for all field office the detailed listings reports for Active and Closed charges since October 1, 1985. These listing are to be reviewed and annotated for errors and ommissions by the field offices.**

3. **Download each office data base from CSRS to CDS and provide diskettes to each office for transfer into the local data base.**

4. **Require each office to conciliate the CDS local data base against the annotated detailed CSRS listings. Once the reconciliation is completed and verified, each Office is responsible for entering all transactions into CDS that occurred after CSRS cutoff.**

5. **Set specific deadline for the entry of field data into national data base, including verification of input. The completion of loading the national data base should also be a rigid deadline for the field.**

I should emphasize that we are committed to making CDS work. If we are given the opportunity to do the pilot study properly, we can rapidly go to the next level of development of CDS that would give us the multi-user, efficient system that was intended. I am strongly opposed to any attempt to go with an incomplete system, or with a system that does not provide the field with the tools to manage our caseloads more efficiently. I plan to continue using PXCIMS until CDS can match our system, even if we have to double enter our data. I also need your support in making sure that our concerns are heeded by ISS. The problems that I have articulated are real, and they are based on hands-on experience with the current version of CDS being installed. I plan to call Don Huse and see whether the same problems are occurring with the larger minitower.He and I plan to work closely together to make sure CDS is fully operational by the end of FY 1986, even if we have to do some of the work ourselves. Please call me if you have any questions regarding these memos.

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2

MEMORANDUM

DATE: November 25, 1985

TO: Jim Troy, Director
Office of Program Operations

THRU: Francisco J. Flores, Director
Region III Programs

FROM: Donald W. Muse, Director
Seattle District Office

SUBJ: ADEA/EPA Charge Processing Procedures

From recent conversations with you it is obvious that you are considering restricting the number of Age and Equal Pay Complaints and Directed investigations that a District Office may initiate and/or investigate.

In our conversation it was obvious that your rationale for taking such an action was based, in large part, on your definitions of Age and Equal Pay complaints and directed investigations and a general belief that complaints and/or directed investigations are generated by some field offices in order to increase their workload and thus increase their employee ceiling and their productivity. As a result of being in the forefront in aggressively pursuing the enforcement of the Age and the Equal Pay Act the SEDO has had to generate memorandums that addressed the concerns you have expressed.

As you can see from these memorandums (Attachment 1), the definitions and processing procedures for complaints and directed investigations have historically been esoteric for many EEOC employees.. These memorandums also point out the difficulities the SEDO has encountered in pursuing the enforcement of these two Acts. The main areas of difficulties have all been centered around the following:

1.) That Equal Pay and Age Complaints and/or Directed Investigations processing procedures and definitions are the least understood of all of EEOC's procedures and definitions. This is not only true for EEOC's employees but is equally as true for private employers as well.

2.) The persistent and erroneous belief that Age and Equal Pay Directed Investigations and/or complaints are initiated to inflate an office's Intake and its workload figures which are reported to Headquarters and which are also used to determine an office's employee ceiling.

3.) The persistent refusal by Headquarters to acknowledge that directed investigations and complaints are not only legitimate investigative procedures, but often require as much or more of an office's investigative and legal resources as a Title VII investigation.

The real difficulty with all of the above is that they almost always are caused as a result of individuals, who question or criticize the definitions or procedures, not reading the EEOC Compliance Manual, Volume I.

This memorandum is being written to you for the following reasons:

1.) for input into your decisions as they relate to restricting or changing the present ADEA/EPA processing procedures or definitions and,

2.) to give you my perspective, as a District Director, on the difficulties that have arisen from implementing an aggressive, efficient and effective Age and Equal Pay enforcement program and,

3.) to set forth ADEA and EPA processing procedures and definitions of complaints and directed investigations as contained in existing statues and the Commission's Procedures, Regulations, Guidelines and Compliance Manual Volume I.

In 1982 this office embarked upon a litigation strategy of targeting through a Directed Investigations Program, specific industries and occupational groups which historically had not been in compliance with the ADEA, and which would more than likely involve litigable issues.

The initially targeted groups were state criminal investigators, state troopers, county and local fire fighters and police officers. It should be noted that not only were we aware of discriminatory hiring and retirement practices in these occupations but Chairman Thomas was as well. i.e. In speeches cited in media articles, the Chairman was quoted as saying that fire and law enforcement occupations were in noncompliance with the ADEA and needed targeting by the Commission. (See Attachment 2) As a result of the Chairman's position as well as historical knowledge the SEDO undertook an Age Directed Program against fire and law enforcement occupations through out its geographical area of coverage. The results of this Directed Investigations Program was dramatic. Out of 391 directed investigations 140 or 36% violations were found. We also identified 51 aggrieved persons in the State of Oregon alone. The Idaho and Oregon legislators passed laws that eliminated the discriminatory maximum hiring age and involuntary retirement age for law enforcement and fire fighter personnel. Additionally, the Washington State Patrol and many other law enforcement and fire fighting agencies in Washington entered into consent decrees with the EEOC in order to come into compliance with the Act.

The results of the directed program was even more dramatic when compared to FY 81 and 82, in which we found 6 ADEA violations totally for both years and which produced no litigation.

During FY 83 restaurants were also targeted under the Age Directed Investigations Program. Of 90 restaurants targeted 72 or 80% were found to be violation of the Age Act. Of those determined to be in violation all entered into a conciliation agreement which set forth goals and timetables for the inclusion of protected age group members into their workforce in all job classifications over a 2 year period.

Overall the directed program generated a minuscule number of complaints and/or inquires to headquarters, not about our staff, but about the process itself. As a result of these inquirers and/or complaints Odessa Shannon sent Ray Terry, Acting Director, Region III out to Seattle, during the period June 6-8, 1983 to identify problems relative to the directed investigation program and to determine if the process was being used to increase workload numbers. On June 10, 1983, Ray Terry in a memorandum to Odessa Shannon not only exonerated the SEDO's Age Directed Investigations Program but he also issued a commendation letter on the program. (See Attachment 1 Exhibit 4). Even though, the issue of increasing the office's workload through the directed investigations process, was proven to be untrue, it still remains an issue that needs to be addressed and resolved. This office has been criticized, albeit erroneously, and reviewed so often about its directed and complaint investigations program that I considered taking the position of ceasing the program all together. After discussions with my staff and others I decided that to take such a position would be tantamount to being responsible for the demise of an effective and efficient system of identifying and resolving Age and Equal Pay discrimination. Particularly, since the SEDO was the bell-weather in the pursuit of aggressive and effective enforcement of these two Acts. During this period of time Age Directed Investigations were not being counted in an office's workload. This was happening primarily, because the individuals who were responsible for setting personnel ceiling lacked knowledge about the definitions, procedures and resources involved in a Directed Investiga-

tions. i.e. They did not understand ADEA/EPA definitions or processing procedures, nor did they try to understand them. Particularly, since it was a lot simplier to discount such investigations and especially, since the District Offices were themselves initiating these type investigations.

It was this type of mentality that caused me real concern. In that it shows that Headquarters, apparently, has never given any real consideration as to the amount of investigative and legal resources utilized by field offices to investigate, conciliate and litigate these types of investigations. Nor have they ever given any consideration as to the impact of these types of investigations. i.e. EEOC, generally finds cause in about 5 to 10% of Title VII charges. In two directed investigation programs 1) fire fighter's/law enforcement and 2) restaurants we found 44% violations. These directed investigations required a tremendous amount of this office's resources. Yet, for that period of tire we were not given credit toward our workload or employee ceiling for any of the directed investigations that we had initiated and/or resolved.

Presently this office is conducting directed investigations of employers in its geographical jurisdiction for violations of the Age Act in benefit plans. We started this program as a result of Paul Brenner, General Attorney, ADEA, informing the staff during a training session, that this is an area that litigable violation would likely be found. Under this Directed Program the type of investigation required are not only extremely difficult and time consuming but they require a considerable amount of investigative resources as well. i.e. considerable amounts of interpretation and analyzation are involved.

It is extremely difficult to undertake these kind of directed investigations when as a District Director you know you are not going to be given any credit toward the office's workload or its employee ceiling. Yet it is even more difficult to preclude your staff from conducting these types of investigations when it is apparent there is a high percentage of noncompliance with the ADEA by employers within our geographical jurisdiction.

The ADEA/EPA complaint process is equally as effective as the directed process and has just as much impact when employers who discriminate are identified on a broad scale, E.G. The SEDO received a complaint from an individual who stated that grocery stores had an CBA that precluded them from hiring anyone over the age of 19 as either a courtesy clerk or a box clerk. The complainant further stated that not only was this happening in the State of Washington, but also was happening nationally as well. Based upon this information we began an investigation of the major grocery chains and their respective unions which were located in our geographical area of coverage.

As a result of our investigation and conciliation efforts the union and grocery chains agreed to remove the discriminatory clause contained in the CBA. The grocery chains also agreed to hire people in the protected age group, in these two job classifications.

The impact of this investigation was significant in that these jobs were considered by the stores themselves as entry level for 90% of jobs found within the stores.
We recently received a report from Safeway Stores Inc. indicating that they had hired as Courtesy Clerks two women, one 63, and the other 56, and a 40 year old man. (See Attachment 3).

These hirings are indicative of the success this office has had using the complaint and directed process as they are presently defined.

If the complaint process had not worked as it does, we would have never received the information nor, would we have been able to efficiently and adequately address this type of discrimination among such a large number of employers in a short period of time and at the same time acheive the strongest possible impact locally and nationally.

The amount of time and the resources involved in investigating and resolving the grocery store complaints under the complaint process, was not significantly different from the amount of time and the resources utilized to investigate and resolve the fire fighters and law officers directed investigations program. The real difference is that Headquarters will count the complaints investigation toward our workload and our employee ceiling because they are coded by Intake as 1503s vs directed investigations which are coded as 1514s.

As can be seen from the above discussion the directed and complaint investigative processes have been very effective and efficient processes for the SEDO.

Earlier in this memo it was indicated that the definitions and processing procedures of ADEA/EPA, complaints and directed investigations are the least understood of all of EEOC's processing procedures and definitions.

As can be seen from the memorandums attached, this office has also been in the forefront in having the complaint and directed investigations definitions and processing procedures defined albeit not always by choice. ie. We had read the Compliance Manual and Field Notes and understood them. But, because a lot of individuals in Headquarters and the Field had not, we were constantly being criticized and/or reviewed. And as a result, we spent an inordinate amount of time justifying definitions and procedures that we were utilizing and in accordance with existing rule regulations, procedures and the Compliance Manual. (See Attachment 4).

Below are definitions and procedures that are either contained in the Compliance Manual or in Field Notes:

(a) ADEA Charge - An ADEA charge is a written statement which identifies the prospective defendant (respondent) and generally describes the alleged unlawful age discrimination, e.g., refusal to hire. The identity of the charging party is generally made known to the respondent.

(b) ADEA Complaint - A complaint is any information from a source outside the agency indicating that a respondent has engaged in discriminatory action(s) prohibited by the ADEA. Neither the identity of the complainant nor any information which would identify him/her may be disclosed without his/her express written consent, except where such disclosure is necessary in a court proceeding. Filing a complaint, rather than a charge, may not assure an individual's right to private suit.

Field note 904-17 further defines EPA complaints, ADEA complaints and directed investigations as follows:

(a) An EPA complaint is information from a source outside of the agency which warrants a reasonable presumption of jurisdiction and violation. The complainant does not need to identify herself or himself. The complaint does not need to be in writing nor signed.

(b) An ADEA charge is a written statement from an aggrieved individual (or her/his attorney) which identifies the charging party and the prospective respondent and generally the unlawful age discrimination, e.g., refusal to hire. The identify of the charging party is made known to the respondent and notice of the charge and a copy of the charge are sent to the respondent. There is always an attempt made to conciliate a charge filed with the Commission but there may or may not be an investigation made. A charge must be filed for the party to have the right to file a private suit in Federal court. It is not necessary for an ADEA charge to be signed except in those states which EEOC refers charges to the state agency to perfect charging party's right for suit in Federal court. (See Q and A #3) In almost every instance in which an allegation of violation is made by an aggrieved individual who does not desire confidentiality, the allegation will be handled as a "charge."

> A complaint is information from a source outside the agency which leads one to a reasonable presumption of coverage and violation. It is not necessary that it be in writing in order to be a valid complaint. The identify of the complainant may not be disclosed to the respondent without the written permission of the complainant. Neither a notice nor a copy of the complaint is sent to the respondent and the respondent is not informed as to whether the compliance action was initiated based on a complaint or was initiated by the EEOC as a directed investigation. (A compliance action initiated by the Commisison without a complaint or a charge having been filed is called a "directed investigation.") A person who wishes to file a complaint which EEOC will process must supply more substantive information than just an allegation of age discrimination. She/he must provide enough information on the circumstances surrounding the alleged violation to warrant a reasonable presumption of jurisdiction and a violation of ADEA. If a party files a complaint rather than a charge, she/he may not be able to file a private suit on the matter in Federal court.

The ADEA and EPA Compliance Manuals and field note 907-17 clearly delineate the differences between charges, complaints and directed investigations, i.e., a charge is a written statement from an aggrieved individual; a complaint is information from a source outside the agency. A directed investigation is a compliance action initiated by the Commission without a complaint or a charge being filed.

From the above Compliance Manual and Field Note definitions of ADEA/EPA charges, complaints and directed investigations and from our close coordination with the Office of Program Operations, Special Services Staff, the differences between directed and complaint initiated investigation are clear. The latter is initiated by an outside source vs. the former being initiated by EEOC.

Having defined the differences between a directed investigation and a complaint investigation I will address another factor that has caused the SEDO extreme difficulty in its enforcement activity under the Age and Equal Pay Acts. That is the constant suspicion that the SEDO is generating directed investigations and complaints to increase its intake and workload figures. First let me clearly state with as much emphasis as possible that this office has always adhered to the Commission's policy as stated in the relevant legislation, the Commission's rules and regulations, as well as in the Compliance Manual. If it can be found that this office has done anything contrary to the Commission's policies in its enforcement of the Age and Equal Pay Acts then please cite where we have gone astray. If we cannot be cited for having done anything contrary to the Commission's policies and procedures then let us be cited for having excercised initiative and good judgement in the enforcement of the ADEA/EPA statues.

I cannot emphasize enough that we have not and never will play a number game with the ADEA/EPA directed and complaint processes. Particularly, since it is my personal belief that these processes are an extremely effective and efficient way of rooting out and resolving discrimination.

However, I do believe it is time for the Commission to recognize that directed investigations in most instances require as much legal and investigative resources as a Title VII charge or a complaint and should be counted both in an office's receipt and in their workload to process. If Headquarters persist on excluding these types of investigations from a District Office's workload, then you can be assured that not only will District Offices curtail or discontinue their directed activities but also the Commission will have effectively destroyed a program that not only allows the Commission to focus on major area of potential discrimination but also allows it to devise precisely tailored investigation as well.

The investigation of the Dennys Restaurants about which you inquired is a good example of a major area of potential discrimination. In this instant the Supervisory EOS was informed by an insurance broker that over 95% of all group insurance policies contained a waiver of premium clause, which precludes anyone 60 or older from receiving a particular benefit. i.e. If a person became disabled before age 60 their premiums is automatically paid until such time as the disability ceases or they die. Once a person is 60 or older, this benefit is denied them. The supervisor checked with Paul Brenner, General Attorney, ADEA, Sandra Bollhofer, Branch Chief, Investigations, and Mike McCarthy, Special Services Division, and was informed, as he had initially believed, that if the fact circumstances were correct a violation existed. He was also informed that the Commission was more likely to litigate those violations where the employer paid 100% of the premiums. Sandra Bollhofer was contacted because she is generally considered the expert on benefit plans in that she was involved in the drafting of the Department of Labor, Employee Benefit Plans; amendment to interpretative bullentin.

The supervisor, using the complaint process, selected the first 150 employer from the SEDO's Target Analysis Program - 1983 database, SMSA comparison. (See Attachment 5)

The Dennys Restaurants was selected because they were in the 150 employers on the above list. As a result of using the complaint process, we are finding a 51% violation rate.

The reason we initiated an individual complaint for each employer is because each employer's insurance plan is different and where violations are found each is given options as to how their company can come into compliance with the Age Act. As to the suggestion that we could have accomplished the same thing had we done a few employers as opposed to the number we did. I would answer that this suggestion came from an individual that does not understand the ADEA/EPA statute of limitations, nor do they understand our obligation to identify aggrieved parties in as expeditious and efficient manner as possible so that these parties do not lose their private suit rights.

In order to show these investigations require just as much investigative resources, if not more, as a Title VII charge and in order to show the level of diffculty involved in analyzing a benefit plan. I have enclosed a typical file, a respondent in violation of the Age Act (waiver of premium), and the Department of Labor interpretive guidelines which the EOS has to interpret in order to determine if a violation exit. (See Attachment of 6)

I would also suggest that for further enlightment about that level of difficulty involved in benefit type investigation that you talk to Sandra Bollhofer, Branch Chief, Investigations. I am sure that after you have reviewed the file (Attachment 6), and talk to Sandra you will be able to see that if we were simply initiating those complaints to increase our charge intake, we certainly could have picked an easier type of investigation with which to do so.

In any event these are legitimate complaints as per the Commission's definitions and guidelines in that information was received from an outside source about a discriminatory practice that lead us to a reasonable presumption of coverage and violation.

If these complaints had been processed as directed investigations then this office would receive no credit for their investigations. I believe that a system that discounts an office use of its resources simply because the office itself generated the work is unfair. Its a system that punishes you for having initiative and leadership.

I believe a fairer way would be to count directed investigations, complaints and charges the same for purposes of intake receipts, workload and employee ceilings.

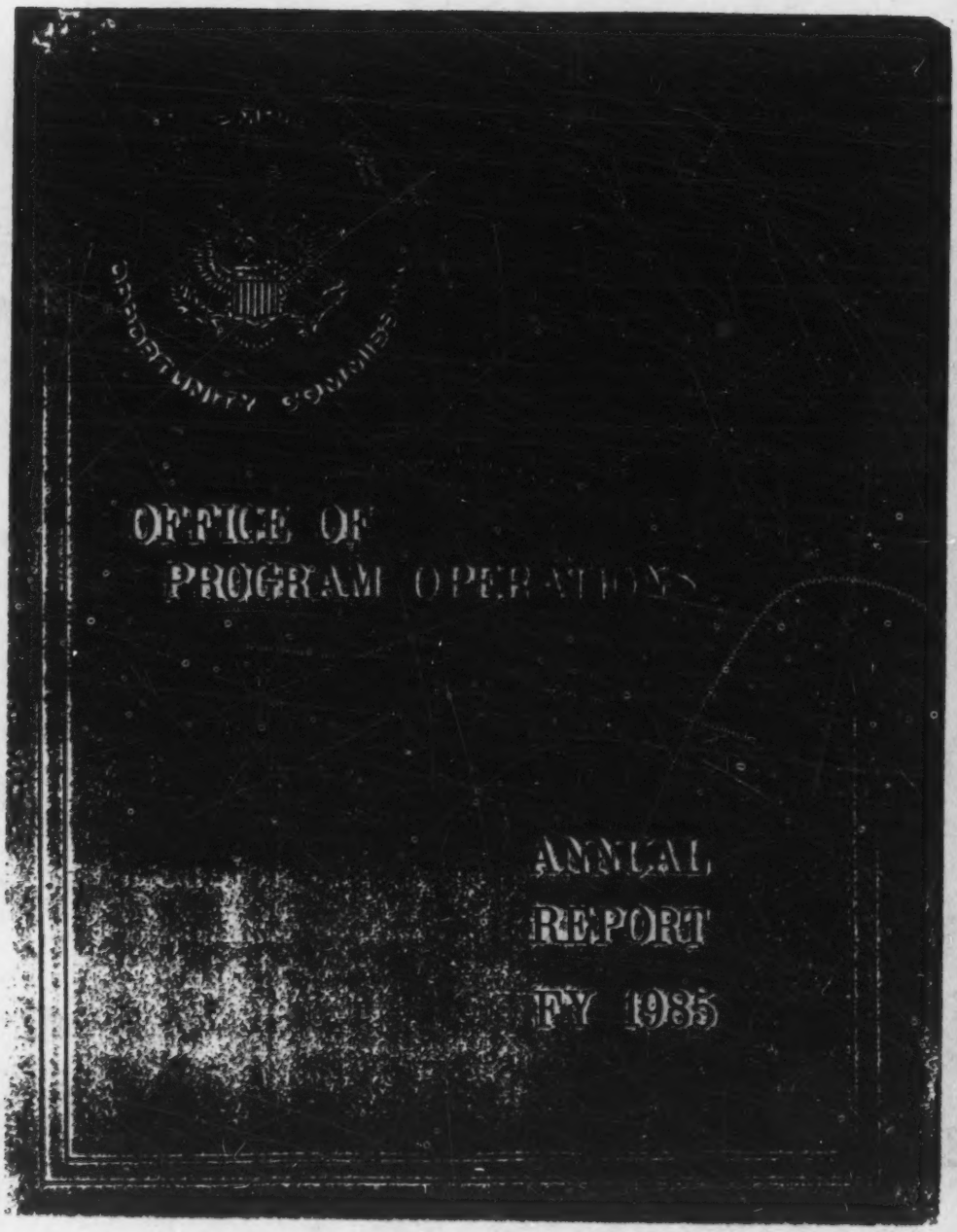
If the Commission is worried about an office using these processes to inflate their intake and workload figure solely to increase their employee ceiling or their productivity, then I suggest that any office which falls into this category should be audited on an as needed basis. An aspect of any audit of this nature, that I believe is crucial, is that it addresses the impact of such directed and complaint investigations and at a minimum consider the impact before making a decision as to the creditability of such programs.

I also strongly believe that the present ADEA/EPA processing procedures work well and as such should remain intact. I know this memorandum is extensive in its text, however, I feel it is important that you understand my feeling on the issues cited above and that you allow input from not only me but other District Offices if you are contemplating changing either the ADEA/EPA procedures or directed or complaint definitions. If you have already made a decision, then I would like to request that you allow us to become a model office utilizing the processes as we presently do and monitor our results against other offices who are operating under new Age and Equal Pay definitions and procedures.

What has been done here is innovative and creative, it shows initiative resulting in a highly effective program. The SEDO Programs as outlined here exhibits exactly the attributes called for by the Chairman in the District Directors meeting held in Baltimore. i.e. innovativeness and creativeness.

Instead of being viewed with suspicion, the SEDO should be encouraged to help other District Offices develop these types of aggressive and effective programs.

If you have any need for further input by me or my staff, please feel free to contact me.


OFFICE OF
PROGRAM OPERATIONS
ANNUAL
REPORT
FY 1985

units in evidence and trial related problems. This interactive training aided the office to improve the quality of investigations and to enhance the professional relationship between employees.

o On-site Investigations - The field offices moved toward conducting more on-site investigations during FY-85. The immediate benefits realized were more timely investigations with higher quality evidence.

o Quality Control - With field office input, Regional Programs revised the quality review module utilized to assess the quality of case files processed by the field. Regional Programs applied the review module standards in its review of the 22 Districts during FY-85. Regional Programs found less than 5% deficiencies in the sample of 2408 cases reviewed.

o Case Management - Regional review of field offices included inspection of the charge management and tracking methodologies of the District, Area, and Local Offices. Particularly impressive in several District offices were the different automated data processing tracking systems in use. These systems were independently developed and designed in accordance with the managers' specific needs. Some of the innovative ideas from these offices were incorporated into the plans for the new national charge data system (CDS) which was developed during FY-85 and will be fully operational in FY-86. The CDS will allow the Agency to virtually remove the manual reporting burden of the field offices.

ORIGINAL TIME CDS SYSTEM WAS expected TO be fully operational

EEOC's legislative mandate requires the Agency to provide educational and technical assistance to those who have rights and responsibilities under the Federal statutes that we enforce. In the past, the Agency paid constant attention to investigating, resolving, and litigating charges of discrimination, but no concerted attention to the education and technical assistance responsibilities. Therefore, in FY-84, EEOC embarked on two "new" initiatives, expanded presence and voluntary assistance, which evolved to full fledged programs in FY-85.

The Expanded Presence Program is designed for District Offices to make this Agency accessible in areas identified as underserved by our offices. The Districts send contact teams to these sites, on a rotating basis, to impart information regarding this Agency's mission and the public's rights and responsibilities under the laws we enforce. During FY-85, field staff completed 1033 trips to their contact points, received and responded to 7013 inquiries, and received 3520 charges.

UNITED STATES OF AMERICA
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
PHOENIX DISTRICT OFFICE
135 NORTH SECOND AVE.
PHOENIX, ARIZONA 85003
AREA CODE 602
261

April 10, 1986

IN REPLY REFER TO

1362 JT

MEMORANDUM

TO: James H. Troy, Director
Office of Program Operations

FROM: Hermilo R. Gloria, Director
Phoenix District Office

SUBJECT: CDS Implementation

As promised during the Conference Call last week, I want to bring to your attention the major problems identified as a result of the operation of CDS after installation by ISS on April 3/4, 1986. They did meet their deadline of completing Phase I installation. Rick Kashurba had an extensive opportunity to become aware of the problems I had raised in prior CDS discussions. We have also talked at length to Leo Sanchez this week so that the information I am providing you is as current with CDS development as I can determine. We do plan to discuss the software at length with Small Computer Company to see what can really be done to salvage CDS but for now, my recommendations are based on CDS as it is configured (as of 4-4-86). My recommendations are also an attempt to save money and staff resources in three major areas:

1. Reconciliation of CSRS/National Data Base/CDS

2. Saving of Historical CSRS Data

3. CDS Problems and Needs

Attached are my recommendations and observations for your consideration. I strongly recommend that John Seal be made aware of these problems and that OPO be aware that the 706 Agencies will have even greater reservations about CDS if we don't address these problems.

Enclosure

CDS INSTALLATION OVERVIEW
PROBLEMS AND CONCERNS

HERMILO R. GLORIA
DISTRICT DIRECTOR EEOC

I. Reconciliation of CSRS/NDB/LDB/CDS

A. CSRS Data Conversion - ISS has completed a conversion of CSRS data into CDS format for the Phase I installation project. There are two major deficiencies in the data converion process:

1. We were not provided any idea of what period of time is covered.

2. We were not provided any listing or printout of what was provided on the data diskettes for our local data base.

In addition, because of CSRS Commands, a large number of closures are still being carried as open charges.

B. Reconciliation - The limitations of CDS make it awkward and sometimes impossible to make the necessary corrections and deletions required for reconciliation. At best it will be a long tedious task to try and correct the data base on an individual charge basis. We can input new charges but to correct the CSRS data, we will need some major assistance from ISS.

C. Recommendations:

1. Do not start Phase II until the CSRS data being sent to the field is better defined and a listing is provided to each field office. Information on specific edits and data rules are needed.

2. A priority task assignment to ISS to develop the software modifications to allow the field offices to delete and correct data with the requirement that the District's document all corrections and deletions to the LDB.

Given the primitive state of CDS and the NDB, it is not cost effective to continue the installation of CDS until at least these two tasks are completed. If the field offices want to practice on CDS they can enter all new charges received after April 1, 1986.

II. Historical CSRS Data

It will be expensive to try and maintain all of the data files and tapes from CSRS. I strongly suggest that the Commission make a decision as to what period of time should be saved, and that we save only the 155 data and the compliance closure data. Given that we have annual reports giving broad statistics and accomplishments, saving 1975-1985 CSRS data in the limited fashion suggested could provide most of the useful information for historical purposes. In this fashion an archival data base could be economically feasible and current methodology using RAMIS or SAS could be used to provide EEOC with a means for responding to inquiries and research needs.

III. CDS Problems and Needs

A. Software Problems - As originally pointed out to ISS, CACI, and Small Computer Company, CDS and File-Pro are incapable of using the system for managerial tasks and ad-hoc reporting. File-Pro structurally separates the charge file from the Add Action File with little if any relational ability to exchange data between the two files. As a result of this inherent limitation we are now faced with the inability to list local data in the system, to delete errors and misinformation, to generate closure reports, and to quickly search, sort and selectively print out needed information. As the system now stands, the reconciliation of data from CSRS is almost impossible since we cannot make a listing of the data installed by ISS. We are also concerned that because of design flaws in the selection of key elements for search routines, the system will be extremely slow to generate even the formal reports normal to CDS and File-Pro. My personal operation of the CDS installation in Baltimore brought this point across quickly even though some attempts to increase the processing speed of CDS have been made. The only conclusion I can make at this time is that File-Pro was the wrong choice of software

for management of CDS. I have no recommendation to offer since I have no experience with UNIX systems, but even R-Base 5000 can be obtained to operate under UNIX. Other relational data base software is available as well that could operate under UNIX. As the system stands now, it is not acceptable and is probably not worth more effort to "jerry-rig" solutions with File-Pro.

B. System Problems - We have major concern over the limited system we are getting. The lack of word processing capability totally hampers any effort to automate the Intake/Docket process. The limitations of CDS software will seriously hamper any attempts to generate 396 reports from the system. Memory limitations will inhibit any real multi-user multi-task operation by limiting the number of terminals that can be driven. CDS is not near what was originally envisioned, and we have no prospects of upgrading because of budget restraints. The design of the National Data Base as the focal point for all communication with headquarters, area offices and 706 agencies is not efficient and will be very costly to use for all system users.

C. FEPA Concerns - I have mentioned in previous Memo's that CDS complicates and impedes the dual filing and referral processes required by law. Even if we find a solution around this problem, I am convinced that FEPAs will reject CDS for its many shortcomings and high cost of operation. HERO is almost totally incompatible with systems already in place in the larger FEPAs. HERO may be too expensive to install and maintain for the small FEPAs that lack any data system. Based on discussions and comments in Baltimore, you may have wholesale defections once the limitations of the system become obvious. No solutions have been offered for the lack of communication built into the HERO/CDS System, and the expense of NDB queries needed. There will be major contract monitoring problems as well as deferral problems unless we continue our present paper flow and manual data exchange which would make HERO even less attractive.

FINAL COMMENTS

As presently structured CDS will not be much better than CSRS, and in some areas it will be more difficult to operate administratively because of the NCR/UNIX System requirements and the CDS System requirements. Local data base reports and operations will be severely limited because of the major shortcomings of File-Pro and of CDS design. I am not certain how good the National Data Base will be, nor am I convinced that the 396 reports can be easily generated from CDS. What we will have is a clone of CSRS, a system that will swallow data input with little to show at the local level, and with less than reliable output at headquarters.

I am very disappointed that little attention was paid to field concerns expressed early on in the design phase in Fiscal Year 1985. My impression whether fair or not is that the only objective of ISS was to meet Seal's deadlines, rather than to address the major problems identified. I feel frustrated that my personal attempts for the past 15 months to point out technical problems fell on deaf ears because we had already invested $1.5M in the project, and because the field is apparently not an important player in the project. Given the limitations of Gramm-Rudman, we are going to limp along with a system that does not meet EEOC needs at any level, and with little prospect of full implementation of a system that is expensive to run in terms of staff and monetary resources. I have no choice but to continue using my own system for the next two or three years. Unless some action is taken and specific commitments made to do a major redesign of the software, I am recommending that the field only input CDS data, and that they maintain a separate system to manage their workload. You can struggle with the National Data Base, and we will supply 396 reports as usual along with responding to your needs for special reports. I am concerned that EEOC will be left "holding the bag" on an incomplete system after CACI concludes their part of the contract.

One final point - ISS told us that they expect the field (defined as Phoenix D.O.) to find solutions to the problems of CDS. My only answer to them is to paraphrase an old hispanic saying, It's not my job"!!

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

APR 14 1986

MEMORANDUM

TO : FEPA Office Directors

FROM : James H. Troy
Program Director

John Seal
Management Director

SUBJECT : Interim Guidance for Implementation of Charge Data System (CDS)

Installation of the CDS in EEOC offices began during the week of March 31, 1986. The installation will be conducted in four phases, with each phase lasting two or three weeks.

During each phase of installation, several EEOC districts will be brought into the system, along with all of the EEOC area/local offices, and FEP offices which comprise those districts. Attachment A is a listing of all offices included in each phase of installation.

The primary contractor for development of the CDS/HERO system, CACI, started shipping equipment to FEP offices on March 11, 1986. The computers shipped by CACI have all software installed, and should be ready for hookup and use upon arrival. The contractor is providing instructions and hotline service for the installation. Subsequently, and in concert with EEOC phases of installation, CACI will provide the FEP offices with disk media containing data for charges being processed by FEP agencies. This data on existing charges will be installed on the computers of each FEP agency. Until this download of converted CSRS data is complete, your staff should not input data into the system, except on an experimental basis. The data download will overwrite any existing records on the system. EEOC offices will be provided with listings of the charges downloaded to the FEP agencies in their areas of jurisdiction.

Charge record data downloaded in this manner to FEP agencies will be incomplete because EEOC's old computer system contains records of many charges in which the FEP agencies processing the charges are not identified. Those charge records will be downloaded to the EEOC offices having accountability for such charges. Listings of those charges will be provided to both EEOC and FEPA offices.

EEOC offices will begin electronic transfer of these charges to the appropriate FEP agencies when the Collection Manager computer installed at EEOC Headquarters is fully tested.

Because of the various administrative problems which will arise when changing over to a new computer system, the attached set of guidelines, Attachment B, is provided for your use. Please insure that these guidelines are provided to your System Administrators, and all other concerned staff. Questions and suggestions concerning administrative problems should be brought to the attention of the System Administrator in the EEOC office servicing your Agency.

Attachment

cc: Francisco Flores
Director, Region III Programs

Constance Dupree
Director, Region I Programs

Joseph Bennett
Director, Region II Programs

Richard Kashurba, Director
Information Systems Services

UNITED STATES GOVERNMENT

Memorandum

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
SEATTLE DISTRICT OFFICE

TO : Jim Troy, Director
Office of Program Operations

DATE: 4/14/86

FROM : Donald W. Muse, District Director

In reply refer to:

SUBJECT: Evaluation of CDS

The following is submitted pursuant to your request for a summary of problems encountered to date with CDS.

DEFICIENCIES WITH THE PILOT TEST MODEL

"Pilot testing" implies a field test of a system that in most respects is operational. Accordingly, if the version of CDS currently being field tested represents what the field offices will have to work with, then our evaluation is that the system is woefully inadequate and continues to represent a major departure from the concept of the CSRS Redesign Group.

FEPA INTERFACE

As has been mentioned numerous times both in writing and in conversation, the system lacks any ability for the District Office to query its FEP Agencies' files or for FEP Agencies to query the District File. Therefore the goal of eliminating or greatly reducing paper flow back and forth between District Offices and FEP Agencies has not been met.

The ability for mutual query capability is vital to enable us to monitor the activity of our contracting agencies both as to the quantity and quality of work in order to assure that contract expenditures are providing the most value for the dollars spent. Not only that, but such inquiry capability is also essential to expedite the preparation and presentation of important statistical data to Headquarters.

If each District Office were equipped with a Collection Manager so that data would flow from FEP Agencies and Area Offices first to the District Office then on to Headquarters as had been originally concieved and recommended by the CSRS Redesign Group these problem areas would have been resolved and the system would function at less cost to both EEOC and the FEPAs. The system would also conform to the lines of authority and responsibility basic to the organization of EEOC. A basic premise of system design that "form follows function" has been breached with the current design of CDS and where this is allowed to happen, the system usually collapses.

All of the reporting requirements contained in the functional requirements documents require local storage and manipulation. An additional problem this creates is that if a 706 agency becomes unable to enter its data for any reason, the district office will also be unable to assist by entering the data on their behalf. See page 10 of the CSRS Redesign Group Document. This major change from the functional requirements document has been done unilaterally without notice to the office of Program Operations or the CSRS design group since finalization of the (users manual) document. The reason cited by I.S.S. for maintaining the wealth of data only on the main frame in Headquarters and not in the district office is lack of funds to buy an adequate memory and storage capability for the district office N.C.R. Mini-Towers. It has been determined that a minimum of 46 megabytes is necessary to store all local data, 706, area & local offices. The cost of increasing local storage and memory capacity of the N.C.R. Minitowers is miniscule compared to the savings in personnel costs we are now expending.

NETWORK

The original design of C.D.S. contemplated setting up a local area network with the NCR Minitower as the Central processing and Storage device. The PC's, XT's, other terminals and printers presently in the district office would be tied in with the NCR thus affording maximum access to data bank files for both original input and information retrieval. Intake information would be entered only once ("a single entry concept") with the System generating all required printed output such as charge forms, RFI's, etc. Subsequent data entries would be limited to updates on transfers, case status, and process information. All required weekly, monthly, and quarterly statistical reports would be generated by the system. EEOC area and local office and 706 agency data would be input directly from the agencies to the local data bank with no need for further manual processing. The entire district office charge input (including 706 and local and area offices) would be available to the primary users without the time and expense of going through a main-frame.

The NCR equipment that has been furnished to the Seattle Field Office has more than sufficient Storage capacity - we have the megabytes - but the working memory of only 512 K (RAM) is extremely limiting and is a material factor in reducing processing speed. Other offices will not have the storage capacity of 46 megabytes or the adequate computer memory to support the C.D.S system.

Additionally, NCR has informed us that the maximum number of simultaneous users a 512K system will support is only three and that it would be an extremely slow system. This in itself makes the establishment of an efficient local network a manifest impossibility and eviscerates the original C.D.S. concept.

EXCESSIVE NUMBER OF CODES

The CSRS Redesign Group proposed a total of 84 C.D.S. english language transactions. See pages 13-14. 1 thru 13-14.5 of the C.D.S. functional requirements documents. In spite of this recommendation, the C.D.S system as developed contains 129 codes. This represents an increase of 45 codes or 58% over what was recommended. The result will be a tremendous reduction on the speed in which the system can respond to inquiries and a much more burdensome entry and collection of data system. The CSRS Redesign Group was mandated to eliminate all non-essential codes. This was done, however, not only has the number of transactions increased 58% but the codes have been retained, rather than the english language transactions. The increase to 129 was unwarranted and unnecessary and it will create delays and problems to the users, most of the reintroduced codes had been rejected as not essential by the CSRS Redesign Group.

SPEED OF RESPONSE

The problem of speed of response in the system is amplified by several factors all of which were introduced in defiance of the user's needs as expressed by the Redesign Group. One factor is the number of codes already discussed. A second factor is the number of screens added to the system and made necessary by the excessive number of codes. This means that, to enter the coding history on one charge one will have to call at least six or seven screens just to enter basic compliance history. Apparently, the developers of the system did not consider the users' needs, but rather the programmers' convenience. Our understanding is that the speed of response of the CDS could be greatly improved by adding to the memory capacity of the system in each District Office.

ENGLISH TRANSACTIONS V. CODES

Another objective that the Redesign Group had and tried to accomplish, was to simplify the system to make it easier to operate and maintain. The CSRS system required that an operator making entries into the data system know a large number of codes and a prescribed sequence of codes. The Redesign Group proposed one screen with a list of possible actions described in English. The operator would move the cursor to the entry desired and press a key to enter the action in the data system. This proposal was

also ignored and we are back at having to enter two digit codes for each action desired. The fact that each screen contains a dictionary of what each code means helps the computer operator, but it increases the number of screens needed and slows down data entry to an enormous extent, as well as injecting another possibility of error.

MAINTENANCE OF HISTORICAL FILES

Every time that we propose a change to the system, the argument is advanced that we do not have enough storage capacity to accomodate as many fields as we need. However, the CDS as presented to us, does not make any provisions to retire the data at some point in time after the actual files are destroyed. At present, we dedicate approximately $300,000.00 in staff salaries to maintain and manipulate historical files that are of no use to anyone. The Redesign Group suggested that we retire computer data files following the time schedule as it appears in EEOC Order 201 and that we place the data on a Microfishe system instead. This would free the capacity of the system to allow us to enter as much data as we can possibly want.

ANDERSON - JACOBSON TERMINALS

We are told that Headquarters is now contemplating purchasing Anderson - Jacobson terminals to replace our presently leased equipment. Why is this being considered when the IBM PC's or XT's equipped with Hayes Modems will out-perform, and provide greater flexibility than, the A-Js at less cost? (See our memorandum of 9/3/85 to John Seal and Richard Kashurba on this subject, attached.) Surely the money to be spent for the A-Js could be better utilized to provide additional needed memory and storage for the NCR Minitowers. Attachment #2

AVAILABILITY OF EEOC FUNDS TO SUPPORT THE C.D.S.

There is no longer any financial excuse for not implementing the C.D.S. with the required multi-purpose & multi-use hardware and the necessary storage capacity of a minimum 46 megabytes. During the last week of the Fiscal year over $600,000.00 newly found dollars was spent on a variety of low priority none essential equipment far more than enough to pay for an adequately equipped C.D.S. system. In the Seattle District Office alone over $22,000.00 was spent in the last month of the fiscal year for items as follows:

---- $12,000.00 for library furniture and shelves. Nice to have but certainly lower/priority than C.D.S. equipment

----$3500.00 for another PC-XT [plus attachments]. Less needed than C.D.S. equipment

---- $1000.00 for an Anderson/Jacobson P.C. terminal with equipment to be used in Systemic Programs. This terminal does not work as well as the PC-XT already in place in Seattle

----$2500.00 for four electric typewriters. Lower priority than C.D.S.

---- $5,000.00 to be spent on equipment, other than C.D.S, as the District Director determines

All of the estimated $22,000.00 in equipment spent during the last month of the fiscal year "85" in the Seattle District Office will be useful but is of much lower priority than an effectively outfitted C.D.S. system. The purchase of the library furniture and the Anderson/Jacobson terminal is unjustified at the same time we are being advised the C.D.S. cannot be adequately equipped to provide the necessary basic services.

ADDITIONAL FUNDS NEEDED

To furnish the necessary memory upgrade for all district offices would cost $41,400.00. To furnish additional storage capacity to upgrade storage at each district office to 46 megabytes would cost $44,620.00.

The total cost, therefore, the upgrade the entire system to enable full implementation of the original CDS concept would be $86,020.00

UNPREDICTABILITY OF COSTS

The unpredictable expense of having the 706 agencies, area and local offices input and retrieve information directly to and from the National Data Base and not from a data bank maintained at the local district office level is not only unpredictable but in our estimation would be so costly as to constitute a prohibitively discouraging factor in any decision to participate directly in CDS - further detracting from the original conceptual design.

Additionally, the telephone costs involved would be exorbitant given the expected volume of queries required if the system were to truly serve the needs of the 706 agencies and also our use of its lines, which are not free.

Further, if the cost of the volume of transactions at the mainframe were to exceed the funds budgeted, access to the data base could be expected to be terminated.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
SEATTLE DISTRICT OFFICE
1321 - 2ND AVENUE, 7TH FLOOR
SEATTLE, WASHINGTON 98101
TELEPHONE (206) 442-0968

Date: May 1, 1986

To: Clarence Thomas, Chairman
Equal Employment Opportunity Commission

Through: James Troy, Director
Office of Program Operations

John Seal, Director
Office of Management

From: Donald W. Mune, Director
Seattle District Office

Subject: Charge Data System (CDS)

Pursuant to our conversation at the Seattle District Office on April 30, 1986, you will find my comments on the Charge Data System attached.

Attachment: CDS, November 14, 1985
CDS, April 14, 1986

Narrative to be telecopied May 1, 1986

Document mailed DHL May 1, 1986

The only computer system that will be effective at EEOC is one designed and implemented for the primary users, the District Offices. The present CDS has been designed and implemented for the use of Headquarters, basically Information System Services.

The system designed by the CSRS Redesign Group, at considerable time and expense, was designed around the essential needs of the District Offices. All operational data would funnel through the D.O., where a data bank of District, Area and 706 charges would be maintained. Once this information was compiled locally only each D.O.'s statistics would be relayed to the Headquarters Collection Manager.

The CDS system now in place is just the opposite of what it should be. All the 706 agencies, and the local & area offices of EEOC go directly to Headquarters with total charge information, not just the statistics. Essential 706 and area and local office charge information is not accessible to the primary users, the District Office without querying a remote main-frame. How can a D.O. operate efficiently without knowing basic charge information about their own Area & Local offices, and about 706 charges that must come to the D.O. for contract payment?

Any system of computer data processing that depends on a main-frame with an indeterminate cost will fail, just as the extensive cuffing system designed by EEOC financial services failed. At present there will be 121 different 706 Agencies and EEOC, District, Area & Local offices querying the main frame at an expensive, undetermined cost.

The CDS system now in place is beyond the means of a small agency such as EEOC. It should be reduced to the basic essential system designed by the CSRS Design Group. The 706 Agencies would use their NCR Mini Towers to compile and manipulate their own data then relay the info to the D.O. where each D.O. would compile their own independent data bank. The statistics of the 23 District Offices would then be relayed to a Headquarters Collection Manager which could then sort the data as needed. If Headquarters needs additional data, the D.O. data bank could be queried. An NCR Tower with the proper storage capacity could manipulate this data without the use of the main-frame.

The CSRS Redesign Group, which was a consensus of all Field and Headquarters office needs, recommended a system that would eliminate most of the D.O. paperwork. The present CDS system does not do that. The Quarterly 396 Forms must still be done by hand. The EOS GPAD charge tracking system is also not in the planning. Networking which is essential to this concept has not begun.

Rick Kashurba came to the Seattle D.O. in Nov. 1985 and acknowledged he had never read the recommendations of the CSRS Redesign Group. He had no understanding of the essential basis concept of an independent Field Office data bank. Wholesale, unilateral, changes have been made to the CSRS design groups' essential recommendations, such as the essential codes have been increased over 100 percent, the CDS is slower than the CSRS, and historical files are still maintained indefinitely.

The I.S.S. has increased from 19 employees in Dec. 1984, to over 30 at present, however, the necessary expertise to design and implement a much simpler CSRS Redesign Group system is simply not available in I.S.S.. An expensive program of contracting out I.S.S. work has not resulted in a viable program.

Lack of money has always been used as the reason for not implementing the CSRS Redesign Groups' recommendations, this is not valid. More money has been spent on the present system and mis-spent during the last two weeks of FY85 - than is needed to implement the necessary program. The Seattle D.O., for example, did not need $17,000.00 worth of Library furniture during the last week of FY85.

Mr. Chairman, there is not one District Director who does not complain bitterly about the present CDS system. It is designed and implemented for Headquarters for the convenience of I.S.S. and not the primary users.

We need a less expensive, more basic system that would allow the District Offices, the primary users, independent access and control of timely and correct data. We need a reliable elementary system that gives us uniform essential information but permits ALL users to manipulate data locally in whatever manner needed without dependence on Headquarters.

I recommend to you that the extensive CSRS Redesign Group recommendations be compared with what is now being implemented as the CDS system, there is wholesale disregard of the basic, elementary recommendations, of the primary users.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MAY 29 1980 May 29 1980

MEMORANDUM

TO : Don Muse, Director
Seattle District Office

FROM : James Troy
Program Director

John Seal
Management Director

SUBJECT: Charge Data System Comments

The Chairman requested us to respond to your latest set of comments to him on the Charge Data System (CDS).

As we agreed upon when you chaired the CSRS Redesign Group, the CDS is being developed and implemented in a phased approach. In the first phase of CDS, a basic system is being delivered to assist the Field in its caseload management and Headquarters for its national reporting functions. We took this approach so that we could get a good basic substitute for CSRS as soon as possible and still operate within our resource constraints.

Most of the requirements outlined by the CSRS Redesign Group have been incorporated into the basic CDS. While other recommended features are not currently available in CDS, we are planning to provide most of them this year or next.

In response to specific concerns raised in your memo, we will address them point-by-point:

1) The Charge Data System was not and could not be designed solely for District Offices. We must address the needs of other users as well ... FEPAs, Area and Local offices, and several Headquarters offices. This was a basic reason for establishment of the CDS Redesign Group.

2) The concept of funneling all caseload data through the District Offices was rejected for two reasons. First, there is a need for a national data base with more than just summary statistics and the option of a collection manager type of "super" microcomputer in each District Office is prohibitively expensive both in terms of dollars and resident staff ADP expertise. Second, District Offices are envisioned as querying Area, Local and FEPA data for case management needs, but not directly changing their records. Giving more than one source the ability to change data records magnifies data administration problems and weakens accountability. We are working on the creation of a "mini-file" to provide key data to District Offices from their affiliated offices. The District's "mini-file" would be automatically updated as Area, Local, and FEPA offices update their local data bases. This feature will allow District managers to easily monitor the District's full caseload.

3) A long-standing ADP problem within the Commission has been its inadequate mainframe computer. For that reason, when the CDS was being developed careful consideration was given to its mainframe needs. Based on its strong developmental assistance capability and state-of-the-art operations, a contractor was selected as the site for the national data base's development and initial implementation. Because this service is also expensive, especially considering subsequent Gramm-Rudman reductions, we are exploring other mainframe alternatives.

4) The departures from the CSRS Redesign Group's recommendations you raise are largely incorrect. For example, the 300 codes in CSRS were originally reduced to 80 and then, after consultation with the Office of General Counsel, the Group increased the number to incorporate litigation tracking codes. The total went up to 120, still a significant reduction from the CSRS of 60 percent. The quarterly "396 forms" are currently being developed and scheduled for completion by June 30. Networking is not an essential component of the basic CDS, although two terminals are now installed in each District Office. Networking is a planned enhancement to the CDS and will hopefully improve the efficiency of charge processing in the Field. The CDS does allow for charge tracking by EOS; it maintains the identity of the EOS, the date the charge was assigned, when the charge was closed, as well as other status add actions. Inputting into the CDS is faster than the CSRS unless there are special problems within a particular office (e.g., in Seattle we found that one of the terminal parameters had been reset and thus was giving faulty input).

5) Staffing for Headquarters ADP functions was at 24 in October 1982 when Headquarters was reorganized and declined while you were on detail with the CSRS Redesign Group (late 1984 - early 1985). As you know, these reductions were due to the planned departure of certain ADP managers and other long-time employees. During that same time period we were recruiting for new managers and additional staff to not only work on CDS, but the whole office automation program including the development of other data bases.

6) Enhancement of the Seattle library in FY 1985 was part of a multi-year project to address the long-standing, serious deficiencies we have had with District library resources. These deficiencies were recognized by the GAO and the Chairman approved this effort two years ago as a priority. The District Offices have been highly complimentary of the program. The improvements are not made unless the District Office views them as important and agrees on their installation. In Seattle's case, the funds were obligated based on your Office's request in May 1985 for assistance.

7) We are not aware of every District Director "bitterly" complaining about the present CDS. On the contrary, the overwhelming number of comments from District, Area, Local, and FEPA Directors has been extremely positive.

3RD DRAFT

STATEMENT OF WORK

CHARGE/COMPLAINT DATA MANAGEMENT SYSTEM

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CHARGE DATA MANAGEMENT SYSTEM

COLLECTION MANAGEMENT SYSTEM

ISSUE 3 (3/12/85) P.AUBRY

STATEMENT OF WORK--CHARGE/COMPLAINT DATA RESOURCE MANAGEMENT SYSTEM

1.0 Overview

This Statement of Work covers activities required to convert from the EEOC's present centralized Complaint Statistical Reporting System (CSRS) to a new distributed system with increased capability that is more responsive to the users needs.

1.1 Present Operation

The present National Database for the CSRS exists on an IBM System 3 located at EEOC Headquarters in Washington, D.C. This database is updated by each EEOC field office in an interactve environment on a dedicated leased line network that interconnects all EEOC offices to the data base. The System 3 generates planned periodic reports from the data base as well as creates historical files for batch ad-hoc reports in an IBM/MVS environment. It is the Commission's objective to redesign this CSRS and eliminate the dependence on the now obsolete System 3 hardware and software by October 1985.

1.2 Design Task Force

A task force of EEOC specialists is responsible for developing detailed functional specifications and an implementation plan for use in detailed system design, testing, conversion and operation of the new system. These specifications are attached and define the application functions to be performed by this Statement of Work.

1.3 Architecture

The overall architecture of the new system provides for a Local Database (LDB) at each of the EEOC's field offices to be used for local administration, tracking and reports. It also provides for a single National Database (NDB) for national administration, reports and queries. The major updates to the NDB will be prepared off line at the local offices as a product of the LDB and forwarded on a scheduled basis to the NDB on a dialed up connection using the FTS Network. The qualifying 706 Agency databases and update procedures would be similar to EEOC field office databases and updates. Interoffice communications for query will be by dial-up service and data or document transfer will be by dial-up or Electronic Mail service.

1.4 Conversion

A conversion process will be designed to automate insofar as practicable the transition from the System 3 database to the new LDBs and the NDB while providing continuity in mantaining the EEOC's history files and reports.

1.5 Hardware/Software - National Database (NDB)

1.5.1 The detailed system design of the NDB is to be targeted to an IBM/MVS mainframe environment using 3350/3380 Direct Access Storage Devices and Yale ASCII protocol conversion. The Data Center to be used for development and testing is the Washington Computer Center(WCC). In order to maintain system portability to possibly another facility in the future, however, special devices such as the Mass Storage System will not be included in the design.

1.5.2 The Database Management System (DBMS) used for the NDB will be RAMIS II presently owned by the EEOC. This RAMIS software product will be supported by the EEOC-Data Management and Support Branch. The RAMIS modules and release level available for this design will be provided as required. Other modules may be provided as justified in the ongoing design. Other standard software facilities are available at WCC for application development and support of remote applications such as RJE, TSO, SPF and CICS. A comlete list can be obtained when required. The use of special software should be avoided to maintain system portability at some possible time in the future.

1.6 Hardware/Software- Local Database (LDB)

1.6.1 Because of the large difference in case workload between large offices and small ofices, two versions of the LDB and related applications will be required; a small office version and a large office version.

1.6.2 The small office version should be targeted to an IBM XT with 512 K of RAM, a single floppy disk drive and 10 MB of hard disk. These XTs will also be equipped with integral Hayes Smartcomm hardware and software operating at 1200 baud on dial-up facilities. The operating system will be PC-DOS and the word processing package will be WordPerfect. The database management, screen management and reports generation package (FilePro) should be as similar as possible to that used at the large offices and the 706 Agencies.

1.6.3 The large office version should be targeted to a Microcomputer with a multiuser Unix based operating system. The database management, sreen management and reports generation package (FilePro) should be as similar as possible to that used at the small offices and the 706 Agencies.

2.0 General Requirements Statement

It is the purpose of this section to outline the objectives and work products which are expected to be produced from this portion of the contract. There are more detailed explanations of some system components provided in ancillary documents incorporated by reference or attachment to this statement of work.

2.1 Statement of Objective

EEOC wishes to implement a redesign of its current Complaints Statistical Reporting System (CSRS). The redesigned system is currently being referred to as the Data Resource Management System (DRMS). The term implement is intended to mean the following activities:

2.1.1 To document in greater detail those particular parts of the User Requirements which the Contractor and the Contract Monitor's Technical Representative (CMTR) jointly agree require greater specificity in order to be designed, coded and tested.

2.1.2 To perform all coding, programming and unit testing as well as other software production needed for developing the system components described below in 2.2 .

2.1.3 To perform all component testing and integration testing, including pilot tests and full volume parallel tests required to test the system components and the integrated system to the satisfaction of the CMTR.

2.1.4 To produce all required user documentation, operations documentation and software maintenance documentation according to standards provided by the CMTR at the begining of the project.

2.1.5 To provide start-up training for five EEOC personnel as well as operations training for up to five designated EEOC Computer Operations personnel and system maintenance training for up to five designated Computer Specialists. This training to done prior to the NDB and LDB Pilot Tests.

2.1.6 To perform all software debugging, problem resolution and hardware repair (other than for the central mainframe computer hardware) as judged to be necessary by the CMTR for a period of 12 months subsequent to the date of system acceptance by the CMTR.

2.1.7 Respond to trouble reports from EEOC offices from 8AM to 5PM during the normal work week and provide 24 hour clearance or status on reported troubles affecting service.

2.2. Definition of Statement of Work Components

This statement of work provides for four basic work components. These entail separate but related sets of associated work products which are as follows:

A. Mainframe National Database Project (Includes Central Data Collection).
B. Large Office Local Database Project.
C. Small Office Local Database Project.
D. Field Training of EEOC Work Force.

2.2.1(A) The Mainframe National Database Project includes all activities and work products required to implement the Redesign Task Force specifications and other related specifications associated with the following,

2.2.1.1 Implementation of the NDB using the RAMIS II DBMS.

2.2.1.2 Implementation of the conversion of the existing CSRS database into the required format and new code values.

2.2.1.3 Implementation of procedures for editing data and updating of the NDB (both on-line and batch), as well as procedures required by the Data Base Administrator to maintain database performance and assure data integrity.

2.2.1.4 Implementation of the NDB data collection system (to be referred to as Collection Manager). This system will permit scheduling of batch type data collection of NDB updates from all field offices. It will also provide maintenance of remote office phone numbers, passwords and communications parameters as well as provide verification and reports to manage the LDB to NDB communications activity. This subsystem will also provide for collection from the field of summary reports or files for central storage, consolidation and/or distribution. See Functional Specifications- Collection Manager.

2.2.1.5 Implementation of menu driven queries requiring the use of the entire active and/or historical database.

2.2.1.6 Implementation of detailed reports requiring use of the entire active and/or historical NDB.

2.2.1.7 Initial down loading of data from the newly converted NDB to each of the LDBs.

2.2.1.8 The NDB will include both active and historical data although the historical data will be a more limited subset of the data elements contained on the active NDB. The contractor will be required to perform conversions on the existing active CSRS database and the historical CSRS database as well as develop, test and document programs for converting active data to historical data.

2.2.1.1 In testing and implementing the NDB project, the contractor will be required to develop user documentation for EEOC Headquarters and field personnel as well as system operation, systems maintenance and database management and administration documentation for the EEOC Computer Staff.

2.2.2(B) The Large Office Local Database Project includes all activities and work products required to implement the Redesign Task Force functional specifications and other related specifications as follows;

2.2.2.1 Implement the LDB using FilePro on a Unix based Microcomputer.

2.2.2.2 Implement loading of the new LDB with converted data from the existing CSRS database.

2.2.2.3 Implement data entry edits and updating of the LDB as well as preparation of updates for use in updating the NDB.

2.2.2.4 Implement temporary storage and transmission procedures for NDB updates and reports for collection by the Transaction Manager.

2.2.2.5 Implement reports and local applications for office operation and administration as covered by Functional Design Spec.s attached

2.2.2.6 Implement menu driven ad-hoc queries to the LDB and implement terminal emulation capabilities to access the NDB and other LDBs.

2.2.2.7 Implement support functions such as file backup, recovery, security, file reorganization and purges.

2.2.3(C) The Small Ofice Local Database Project includes all activities and work products required to implement the Redesign Task Force functional specifications and other related specifications associated with the following;

2.2.3.1 Implement the LDB using FilePro on an IBM XT.

2.2.3.2 Other objectives are the same as those for 2.2.2.

2.2.4(D) Provide training for EEOC field operations people. This work activity requires the production of a course outline, study material, class exercises and proficiency standards and evaluations. The course would be conducted by the contractor personnel at _ Regional locations to minimize EEOC personnel travel time and expenses. This training must be completed before Volume/Parallel tests begin. Train- must be provided for the following;

2.2.4.1 System Manager-One person at each office responsible for managing the new LDB systems at each field office. These people must be trained in all support functions such as DASD space management, file directory and security management, protective dumps and data recovery and restoration procedures.

2.2.4.2 Terminal Operators-One person at each office responsible for using the applications on the LDB as well as updating the LDB and generating the reports. These people must be trained in all applications functions.

2.3 System Design Standards

Standards for development of system components and work products will be provided by the CMTR at the start of the project. They will include, but not be limited to, adherence to the following principles:

2.3.1 Standard off-the-shelf hardware and software available from commercial vendors will be used where possible. The number of modifications to commercial vendor software will be minimized and must not inhibit normal application maintenance and application portability. Examples of application maintenance are modifications to EEOC data elements, generation of supplemental database and so forth. All modifications to hardware, standard software and procecures must be agreed to by the CMTR. Modifications will be fully documented including procedures for removal or bypass as well as procedures for routine hardware and software maintenance. EEOC will purchase the software except in those special cases where the contractor is a primary licensee.

2.3.2 Even though The Large Office LDB and the Small Office LDB are to be implemented on different microcomputer hardware and operating systems, the contractor will maintain the maximum amount of procedural similarity and functional similarity practicable between the two system implementations.

2.3.3 Documentation formats, levels of detail and standards for specific deliverables will be approved in advance by the CMTR, who will determine final acceptance of all deliverables. These standards will be formulated at the start of the project in cooperation with the contractor.

3.0 Testing

In addition to the usual unit tests, integration test, volume tests and demonstrations using test data as mentioned elsewhere in this Statement of Work the implementation plan includes Pilot Tests simulating the production environment. These Pilot Tests include testing with the NDB and three large LDBs and at least two small LDBs.

3.0.1 The contractor shall develop test plans for review by the CMTR for Pilot tests, System Integration tests and Volume /Parallel tests 10 working days before the start of the tests.

3.0.2 The contractor shall provide reports on the results of the tests conducted in 3.0.1 above within 10 working days of the completion of the tests.

3.0.3 the contractor shall provide on site assistance at the pilot locations.

3.0.4 The contractor will make such changes to the system as needed to make the system comply to specification or other generally accepted standards of performance.

4.0 Installation

The contractor will provide installation assistance at hardware and software installation time at each site via on-site assistance or hot-line support as the situation requires.

5.0 Coordination

A Steering Group will be established consisting of of two representatives from EEOC and two representatives from the contracting organization. These people or their delegates are to meet weekly unless it is mutually agreed that a meeting is not required. This group will identify problems, initiate corrective action, report on status and otherwise provide overall project coordination. The contractor will provide a brief summary report of these meetings to the EEOC Contract Monitor.

6.0 Key Deliverables and Delivery Dates

Delivery dates are expected dates of an approved deliverable. Drafts of deliverables are encouraged. The CMTR will provide reasonable turnaround on drafts and documents submitted for his review and approval.

	Deliverable	Delivery Date (workdays from award)	Quantity
6.1	National Database		
6.1.1	Database Design Document	15	5
6.1.2	Catalogued Procedures and RAMIS Coding & Proc's	30	5
6.1.3	Unit Test Plan (RAMIS Database)	15	5
6.1.4	Unit Test Report (RAMIS Database)	30	5
6.1.5	Database User Procedures	35	200
6.1.6	Database Administrators Procedures	35	5
6.1.7	Database Systems Maintenace Procedures	35	5
6.1.8	Collection Manager Detailed Specification	30	5
6.1.9	Collection Manager Test Plan	30	5
6.1.10	Collection Manager Test Report	60	5
6.1.11	Collection Manager Operator Procedures	45	5
6.1.12	Collection Manager System Maintenance Procedu res	45	5
6.1.13	Database Conversion Plan	30	5
6.1.14	Database Conversion Report	90	5
6.1.15	Database Download Procedures and Plans	45	5
6.1.16	Database Download Report	120	5
*6.1.17	Integration Test Plan	60	10
6.1.18	Integration Test Report	90	10
*6.1.19	Pilot Test Plan	90	10
6.1.20	Pilot Test Report	150	10
*6.1.21	Volume/Parallel Test Plan	120	10
6.1.22	Volume/Parallel Test Report	180	10
6.2	Local Database		
6.2.1	Database Design Document	28	5
6.2.2	Source Code Listings (Annotated)	42	5
6.2.3	User Procedures	45	200
6.2.4	Unit Test Plan	45	5
6.2.5	Unit Test Report	60	5
6.2.6	Systems Maintenance Procedures	60	200
6.2.7	Pilot Test Plan	60	20
6.2.8	Pilot Test Report	75	20
6.2.9	Database Administrator Procedures	45	100

* These test phases include responsjbility for testing the NDB, LDB and Collection Management System

COLLECTION MANAGEMENT SYSTEM- FUNCTIONAL SPECIFICATIONS- 3/12/85

GENERAL- This specification outlines the broad functions to be performed by the Collection Management System. It does not include detail requirements such as menu formats, output forms, report formats,field descriptions, codes or tables. References to files, data sets and queues are for logical description and do not restrict the physical implementation.

NEEDS DESCRIPTION- With the implementation of the new Charge Data System and other applications on micro-computers in the EEOC's field offices and in the 706 Agencies it will be necessary to collect data for various central uses. With a potential of in the order of 200 micro-computers that will have to send data on varying schedules it will be necessary to provide a high degree o automation and structure to the collection process to ensure the timeliness and completeness of the data. An example of the requirement for timeliness would be when collecting updates for the CDS National Database, precautions must be taken to collect the data from the field offices in the date and time sequences that the local database was prepared, otherwise, actions against previously entered (but not transmitted) transactions would be rejected and the synchronization between the national database and the local database would be lost. An example of completeness would be the need for collection of office data from the field offices for the preperation of a consolidated national report. Consolidation processing should not start until the data from all participating offices has been received, otherwise, the consolidation processing will be in error. These problems can be controlled on a manual basis with a small number of offices but it would not be practicable with the large number of offices in this case.

CENTRAL CONTROL- In order to avoid the need for coverage at the field offices during out of hours data collection and to eliminate peak hour ineffective attempts of many offices calling to a central point to submitt data it is planned that the collection process be controlled by a central processing point. This center would automaticaly dial the desired offices on a prearranged schedule and invite them to send specific files of data. This data would be consolidated at the central point with like data from other offices and entered periodically as batch jobs into a mainframe process. This center would maintain extensive scheduling and tracking tools to assure that data collection was properly managed.

IMPLEMENTATION- The central collection function along with the remote supporting software at the local offices is called the Transaction Management System (TMS). The central functions may be implemented on a standalone micro-computer, a mainframe computer or a combination of the two. Some study work has been done on the alternatives of implementation and can be made available to the detail design team.

SUBSYSTEMS- For purposes of description the Collection Management System consists of five major subsystems(ss) as follows;

Central Scheduling ss
Central Office Parameters ss
Central Communications ss
Central Job Data Management ss
Remote Collection Manager ss

Each of these subsytems contain files of control information, perform preprogrammed instructions, produce reports and provide interactive dialogue and control value maintenance by a CMS operator.

Maintenance Mode- Each subsystem can be initiated independently by a CMS operator in a passive mode for maintenance of tables,to obtain requested reports and do other housekeeping activities on subsystem files and queues. The CMS may also be initiated in two active modes; one for data collection from the field (Collection Mode), another for preperation of Job Entry job streams from the Job Data Queues.

Collections Mode- When in this mode the Communications ss will auto-dial the field office microcomputers and invite them to send specific data files in accordance with a shedule from the Scheduling ss. The auto-dialing will be done on from one to four business lines using the FTS network where possible. The remote microcomputer will auto-answer when called and verify the call is from the CMS and pass contol to the Remote Collection Manager ss. It will find the requested file/s and send to the central CMS and record date and time for local records. After satisfactory receipt of each file by the Central Communications ss it will place it on a Job Data Queue as designated by the Scheduling Subsystem. During the session all transmission activity will be logged and schedule compliance or noncompliance information will be passed to the Scheduling Subsystem. At the termination of a session, reports will be generated to display or print a summary of the communications activity and deviations from schedule requests.

Job Entry Preperation Mode- When in this mode the Job Data Management SLbsystem will reorganize the data in the files of the Job Data Queue designated by the TMS operator and merge it with appropriate Job Control Language (JCL) to create a batch job stream for entry to JES or RJE

SYSTEM MONITOR- There will be an overall Collection Manager Monitor which provides menu selection to subsystems and to initiate and terminate modes of operation. Other parameters and records not applicable to subsystems may be grouped in the System Monitor.

SCHEDULING SUBSYSTEM -General Description

This subsystem will maintain a database of schedules which will relate which offices should send which files on which dates(sessions). This will prompt the Communications Subsystem to request the proper datasets at the desired time. The schedule will also contain the Job Data Queue to which received data files should be routed. Offices should be addressable by office name (literal) or office code. It should also be possible to refer to a group of offices by a group code. This would be used where several offices frequently appear on the schedule for the same data file. Display menus should be provide to permit updating the schedule for a period of one month in advance. The schedule should provide for initial requests for a data file as well as resends(file already sent) and repeat request(file previously requested but not received). The subsystem should also permit storing schedule profiles for freqently used schedules(Only the date/session would be required) to permit abbreviated schedule preperation.

A schedule history should be maintained to show which data requests have been complied with and which are still outstanding. Outstanding requests will automatically be added to the next collection session unless explicitly overridden.

The reports package should dislay/print all items on the schedule, grouped as requested, such as by office name, file name, date or Job Data Queue. It should also display the schedule history file and the schedule non compliance records. A schedule deviation report should also be generated after every collection session.

The active schedule used in a data gathering session should be ordered in such a fashion as to require only one session with a field office even if multiple files ar requested.

Activities during collection session;

- Passes scheduling information to Communications ss.
- Receives schedule compliance and non-compliance data from Communications ss.

OFFICE PRARAMETERS SUBSYSTEM- General Description

This subsystem will maintain a database of field office parameters which will be used at data collection time to establish the proper communications link. Other information for use in manual administration will also be included for report purposes and follow up. Items to be included are;

Office name (Literal)
Office code
Computer phone number
Transmission speed (1200/2400)
Parameter group*
Identification required
Password required
Field office communications coordinator
Coordinators phone number
Electronic mail address
Changes pending (date of change)

(Standard Parameters will be provided in a group table to avoid repitition)*

Sreens and menus will be provided to so this database can be maintained by the Central Communications Administrator.

Activities during a collection session;

- Pass office parameters to communications ss as requested
- Append office communications coordinators name and phone number to session schedule non compliance report

COMMUNICATIONS SUBSYSTEM - General Description

The major activities of the Communications ss is in the Collection Session mode. These are described briefly as follows;

- Perform all housekeeping functions to establish a session.
- Get file request from Scheduling ss.
- Use office paramaters from Office Parameters ss to establish a session with a remote.
- Pass file name/s request to remote.
- Receive named file from remote.
- Make validity check of data (CRC and block count).
- Move received data file from receiving queue to Job Data Queue.
- Retry "Don't Answer", "Transmission Failed" and other reattempts after a complete pass through the schedule.
- Record "File Not Found" messages and notify Scheduling ss.
- Record and notify Scheduling ss of all other cases of unable to comply with schedule.
- Record "No Data in File" messages and notify Scheduling ss and Job Data Manager ss. A "No Data in File" message is not a schedule deviation.
- Pass results on each scheduled request to Scheduling ss.
- Record all activity on communications lines and file requestsd and place in session history.
- Provide for operator initiation, intervention and status requests.
- Log Collection Manager's operator actions.

There are some actions of the Communications ss performed in the non-session or passive mode. These are as follows;

- Perform diagnostics on communications lines.
- Perform diagnostics to a remote microcomputer as initiated by operator.
- Maintain history file of communications activity.
- Prepare reports for display or print of each communications session.

JOB DATA MANAGEMENT SUBSYSTEM- General Description

This subsystem stores collected files of data as received in Job Data Queues as designated by the Sceduling ss. When the the operator determines that data for a particular job is complete this subsystem will be initiated and the data files gathered by that job queue will be reformated and combined with appropriate Job Control Language(JCL) to create a JES or RJE job.

In the Collection Session mode the Job Data Management ss will do the following;

- Condition new queues to receive data per Scheduling ss.
- Receive files passed to it by the Communications ss.
- Mark queue status file with all activities against the queue/s.

In the Job Stream Preperation mode the Job Data Management ss will do the following;

- Provide JCL fom a library of prestored JCL (Proc Lib) for the job stream that is being prepared.
- Reorganize data contents of files on the desginated Job Data Queue to the format required for JES.
- Combine JCL and data to form a suitable job stream for JES or RJE.
- Mark the job data queue status log with current status
- Save job data queue for possible rerun.

In the passive mode the Job Data ss will do the following;

- Provide for maintenance of JCL procedure library.
- Provide reports and status of all job data queues.

FIELD COLLECTION MANAGEMENT SUBSYSTEM- General Description

This subsystem is resident on participating microcomputers and works with the corresponding Communications ss at the Central data collection site. In the Collection mode this ss should do the following;

- Perform housekeeping functions to prime the microcomputer for a communications session.
- Auto-Answer incoming call.
- Check Id. and password.
- Read incoming request for file/s.
- Find and send file/s.
- Mark local activity log to show that file was sent.
- Resend if requested.

In the Maintenance mode this ss should do the following;

- Provide a directory for locating requested file and for indicating data not ready or no data to send as the case may be.
- Provide a communications activity log*.
- Provide reports of Collection Management activity.

*Activity Log- List all files planned to be sent and their current status such as pending, ready to be sent or sent(date and time).

FILE NAMING CONVENTION and FILE FORMAT STANDARDS- General Description

The files requested from the field offices should comply with a standard naming convention and format. The recommended file structure is a flat ASCII file. The first record in every file is to be a header record whih will contain the code name of the office and any qualifiers about the data being sent(ie."No Data to be Sent"). Other control iformation may be added here as detail design progresses. The file names that may be requested for collection will be assigned by Central and will consist of a two character identifier followed by a six character date. The first two characters should be as descriptive as possible of file type such as CU for Charge Data System Updates. Other files such as Litigation Reports might be named LR. A date must be added to the name to provide a basis for checking the proper sequencing of updates and to seperate the particular faile from other like files.

END

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

JUN 12 1986

MEMORANDUM

TO: Walter S. Grabon, Director
Memphis District Office

FROM: Joseph S. Bennett
Director, Region II

SUBJECT: Field Trip Report On The Memphis District Office

From February 24 to 28, 1986, a quality assurance review of case files and case load management systems was conducted in the Memphis District Office.

This review indicated the office has taken steps to address the problems identified during the FY 85 review. The review team was able to observe a brief display of the new office-wide automated system for compliance data control in operation after several months of design and installation. Recently investigated cases evidenced the use of the new Investigative Plan format developed by the Region. The District has also developed a new "issue tailored" IM format, which it expects will further improve investigative quality and ensure more accurate analysis of evidence. The new Litigation Development Program provides for the provision of legal guidance during critical stages of the investigative process for all potential litigation vehicles. The program also provides for the provision of legal guidance to the Area Offices on potential litigation vehicles. It is still too early to evaluate the final success of these projects as they relate to the quality and performance of the office, but the action has been undertaken.

During the field review, thirty case files were reviewed. Seven (7) or 23 percent were noted in which the evidence of record did not fully support the finding. Seventy-seven percent (77%) of the files reviewed met quality standards. Five additional State and Local "Additional Credit Reviews" are not included in the above figure.

EVIDENCE - The most consistant problem noted during the field review was lack of corroborating documentary evidence to support Respondent's statements or Charging Party's allegations. Many of these cases noted were closed based largely on Respondent's statements, without documents or comparative evidence to support the finding. The review also disclosed that there was a failure to follow-up in a timely manner to Respondent's incomplete response to RFI.

In Charge 85-0969, for example, the Respondent fails to respond to the RFI, chosing instead to provide selected information which shifted the attention from the disability accomodation to the doctor's prescribed 10 pound lifting limitation. There was no follow- up to obtain the information requested in the RFI. Comparative data on disability leave is not obtained, nor is information on light duty assignment. The file also contained data to suggest that 6 or 7 other employees have may experienced similar treatment, yet the class allegations are never investigated. As this is a local Respondent, an on-site visit would have been appropriate and beneficial.

In Charge 85-0303, comparative data was not obtained on disciplinary actions for similarly situated persons, Respondent's discipline/discharge policy, was not obtained. The evidence necessary to support the finding was not secured.

In Charge 86-0112, the initial problem in obtaining corroborating documentary evidence is noted in the lack of an RFI in the file. Several Respondent witness statements are obtained, along with Respondent's position statement indicating Charging Party was discharged for poor performance. Aside from a list of terminations, however, no comparative documentation was obtained. Neither was the Respondent's disciplinary policy, nor a copy of Charging Party's personnel records obtained.

In Charge 85-0951, both the IP and RFI are adequate in outlining the documents and comparative evidence required to complete the investigation, however, much of the requested data was not submitted by Respondent. There is no follow up on the RFI. Evidence of record does not support the finding.

In Charge 85-1047, IP is sketchy and RFI is not evident in the file. No explanation or evidence of Respondent's layoff and discharge policy is present in the file. There is also no comparative data on actions involving other employees with similar problems identified. Only a list of terminations is provided as comparative evidence.

In Charge 85-1303, Charging Party alleges termination based on age and Respondent claims Charging Party was discharged for falsifying records. Evidence on which closure was based consisted largely of position statement from Respondent with selected documentary evidence citing disciplinary actions taken against other employees. Personnel/discipline records of similarly situated employees are not reviewed. As there is a dispute over reason for Charging Party's discharge, some effort should have been made to verify the incident through witness statements. The Respondent is located down the street from the Memphis District Office.

One cause case was reviewed where the evidence in the file did not appear to support the determination. Evidence of Legal involvement and consultation was present. In Charge 85-0325, the file and IM failed to bring out the key piece of evidence, which was that the temporary employee allegedly retained over the Charging Party was not an employee of the company, but was instead an employee with Manpower Temporary Services.

ON-SITES

Several cases were identified in the previous section in which an on-site could have been utilized to obtain needed documentary evidence or witness statements to support the Respondent's position statements or Charging Party's allegation. Two additional cases reviewed contained record of an on-site visit having been utilized in the investigation but not in the most effective way.

In Charge 85-1407, the decision to go on-site was appropriate. The Respondent had provided witness statements immediately upon receipt of the Form 131 notice and the investigator felt it necessary to verify the statements. It appears from the brief notes in the file that the witnesses were reticent to discuss the situation further. Unfortunately no fall back strategy had been prepared for that eventually and the visit is basically fruitless. Had there been some advance preparation for the visit, certain records may have been reviewed or obtained to support either the Respondent's statements or the Charging Party's position in the final determination.

In Charge 85-1408, similar problems are evident. Not much information is obtained from witness interviews. Other comparative documentary evidence (employee records, discipline policy, etc) is not reviewed or obtained. According to a list of Respondent's employees contained in the file, during the time period in question the Respondent hired four other data entry clerks within six weeks of terminating the Charging Party supposedly for "lack of work". Better preparation for the on-site, might have produced evidence necessary to support the final determination.

LEGAL-COMPLIANCE COORDINATION

It has been noted in the field review reports of the two Area Offices that there has been a lack of coordination between the compliance and legal staff on potential litigation vehicles and select charges where legal advice is needed. One case within the District Office was reviewed where advice from Legal should have been sought but was not evident in the file. Charge 85-0969 was closed as no jurisdiction because the Respondent went out of business, however the investigation should have continued to establish whether the Charging Party had a valid claim to the assets, as the creditors did. The file showed no evidence of discussion with Legal.

As an FY 86 office specific objective, the Memphis District Office has initiated a Litigation Development Program which provides for compliance-legal coordination during the development of potential cause cases. It also focuses on enhanced development and coordination with the Area Offices on potential litigation vehicles, at present an underutilized resource. It becomes incumbent on the Memphis Legal Unit to continue its participation in the Litigation Development Program and to maintain regular communication on cases with compliance staff within the Memphis District, and the Area Offices. A system to ensure that coordination needs to be developed.

STATE AND LOCAL CHARGE FILE REVIEW

Five state and local additional credit charges were reviewed of which two revealed problems with the granting of substantial investigation credit. In Charge 85-0410, the file indicates that the FEPA did not complete a substantial investigation and therefore should not have been awarded contract credit. The entire body of substantive evidence obtained in this case consisted of interview notes on the Charging Party and his witness and former supervisor, and the Respondent Vice President. Credit for that action should be rescinded. In Charge 84-1261, the Charging Party requested a Right to Sue Notice during the investigation by the FEPA. A copy of the FEPA file indicates that FEPA did "a substantial investigation andtherefore should receive contract credit," although there is no outline of the evidence gathered by the FEPA on which to base this determination. Although not required by Order 916, this problem indicates the need for the files to contain a summary of the investigation completed by the FEPA agency, including the allegation, evidence obtained, additional evidence required, and recommendation on whether credit should be granted.

CASE MANAGEMENT AND CASE TRACKING SYSTEM

In response to a problem identified during the FY 85 field review, the Memphis District Office has developed and implemented an office-wide automated system for data control which includes a capability for unit case load management. Although still in its testing stages, interviews with the supervisors indicated that they utilized the system's capability for case tracking, but did not yet use the system as an effective tool for managing the case load within their units. Specifically this is applicable to the RCP function where productivity was 66.3 on average at mid-year. If the system is to be utilized throughout the office, training needs to be provided immediately so that supervisors are able to obtain maximum use of both the case management and tracking capabilities of the system.

If the system will not be fully functional for some time, management will need immediately to develop a system for the supervisors which allows for case load management planning and review through the interim phases of the investigative process.

CONCLUSIONS

Based on our review of case files and case load management systems in the Memphis District Office corrective action is required in the following areas:

On -Site: On-site visits are being encouraged to improve the quality of investigations conducted, particularly the problem of procuring documentary evidence to corroborate Respondent's or Charging Party's statements. It is extremely important, however, that appropriate instruction and/or training be provided compliance personnel prior to initiating on-site visits.

RFIs: There is a need to continue to focus RFIs on specific requests for copies of any documentation made or kept which reflects certain evidentiary needs. Accordingly, where appropriate, the RFI should be developed using such phrases as follow:

"Submit copies of any and all documents which reflect anay or all of the following information:"

:Provide copies of any personnel documentation made or kept recording the actions on all employees who have resigned, been discharged, or otherwise terminated from employment during the period of 1/01/84 to present, reflecting the employee's name, sex, etc."

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

JUL 11 1988

MEMORANDUM

TO : Area/Local Office CDS Administrators

FROM : Steve Posniak, Director
Systems Design and Implementation Division
Information Systems Services

SUBJECT : CDS Data Protection Precautions for IBM PC-XT's

This is to remind you that the PC-DOS operating system has vulnerabilities which can lead to the destruction of your data if you do not take certain precautions.

1. Perform regular backups of CDS data using the CDS data backup utility. We suggest a minimum of one backup per week, with retention of a minimum of three backup diskette sets and the oldest of the three sets being recycled.

2. Do not perform a warm boot (CTRL/ALT/DEL) or turn off the PC-XT power switch while you are still in any of the CDS submenus. If you have to power down the system, exit out of all menus (until the C> prompt appears) first. If your physical security arrangements permit, we suggest that the system be left turned on at the C> prompt level with the screen illumination turned dark when CDS is not in use. The CDS menu can then be reactivated with a warm boot, which will also enable you to verify the system date.

4. If CDS does not permit you to exit out of the system, you can try entering a CTRL/BREAK. If that does not work, call the CDS Hotline on FTS 653-8096.

5. If you receive a message informing you that your indexes need rebuilding, you can use the CDS reindex utility to accomplish this. After the reindex utility has successfully run to completion, exit to the C> prompt and enter the following command:

CHKDSK/F

This will help to restore other data which might have been damaged. Even if you do not experience any apparent damage, it is a good practice to run the above command once a month.

95-656 0 - 89 - 25

"Provide copies on any personnel documentation made or kept, including hiring applications, evaluations, positions, etc. for the following persons:"

When the Respondent fails to provide this information, the supervisor/investigator team must secure a timely follow-up to ensure that the needed additional documentation is provided.

Caseload Management: Although the Memphis District Office's automated caseload management and tracking system will eventually be fully operative in the Memphis Office, the office must in the meantime ensure the existence of a caseload management system which highlights progress on the interim phases of the investigatory process. This would give supervisors a more effective caseload management capability for reviewing the progress on cases more than once a month, and planning for optimal use of staff time and resources. The system should highlight progress on such investigative stages as: receipt of RFI, additional RFI required, case ready to be written up, etc. This system should be standardized for the office and put into place immediately.

Compliance/Legal Coordination: Although the Memphis District Office has initiated a Litigation Development Program to enhance the development of enforcement actions it is important as well to develop procedures between legal, the compliance units and the area offices to ensure that coordination is maintained. Procedures should provide for the identification of legal/compliance teams and for regular two-way communication on potential cause cases.

State and Local Additional Credit Reviews: A format for reviewing additional credit submissions for substantial investigation should be developed which indicates whether sufficient evidence has been obtained to base a determination to grant credit. The format should outline: evidence obtained, additional evidence required, and a recommendation on whether credit should be granted. Further, it is necessary to rescind credit awarded for substantial investigation which was not warranted by the evidence in case file number 85-0410.

Systems and procedures designed to improve the effectiveness of RFIs, On-Site Investigations, Compliance/Legal Coordination, case load Management and Additional Credit Reviews should be developed and implemented soon after your receipt of this report. By July 15, 1986, prepare amd forward to my attention a memorandum which outlines the steps and actions you have taken or you propose to take to accomplish these objectives.

draft prepared by [illegible]

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

July 16, 1986

To : Joseph Wiley, Director
Detroit District Office

From: Joseph S. Bennett, Director
Region II Programs
Office Of Program Operations

Sub : Detroit District Office Field Trip Report

During the week of May 27, 1986, we conducted an extensive review of your office for the purpose of examining open and closed charge files and your Office's case management systems.

Overall, we were favorably impressed with a number of improvements implemented since FY-85. In the charge file reviews, we observed that a more functional investigation plan format has been implemented and that RFIs tended to adequately address the issues under investigation. Furthermore, of twenty-three Rapid and Extended charge files reviewed, no files were noted in which the evidence of record did not support the finding.

However, a number of problems were noted in our review of State and Local files. These will be specifically addressed, together with a number of concerns relating to the Office's case management systems in the body of this report.

The following are our specific findings.

A. Rapid and Extended Charge File Reviews

1. Investigation Plans:

Overall, we note that the quality of investigation plans has improved substantially in FY-86. The Office has implemented a new plan format which addresses jurisdiction, theories of discrimination, the proposed scope of the investigation, and other sources of information to be tapped. This represents a significant first step in the development of an effective planning process. However, we wish to emphasize that a functional investigation plan is a flexible document, which not only identifies basic information available and needed, but also outlines a proposed strategy for the investigation. We noted that some of your plans defined the strategy of the planned investigation only in very general terms and we suggest that further refinement in the preparation and use of plans is needed. For instance in an individual harm discharge case, because the plan failed to identify the specific department, positions, or group to be examined, our review of the plan created the initial impression that the intention was to investigate the entire facility. Although we understand that this was not the investigator's intention, it is illustrative of a need for more precisely defining the strategy or scope of a planned investigation. Therefore, we recommend that your Office continue to refine the design, preparation, and use of your investigation plans.

2. Requests For Information:

The RFIs examined, adequately addressed the issues under investigation and in most instances requested copies of the documents containing the required data. Two cases were noted, however, in which data requests were made that required respondents to create lists (i.e. lists of all disciplinary actions, of all employees laid off, and of employees discharged), rather than soliciting copies of the documents containing the data. 1/ Therefore, we wish to emphasize that the focus of an RFI should always be to obtain the best evidence available and to lay the necessary foundation for a subpoena action, should respondent fail to comply with the request.

3. Closure Actions:

Twenty-three case files involving unsuccessful conciliations, no cause findings, and a variety of administrative closures were reviewed. No case was noted in which the evidence of record was inadequate to support the finding.

B. State And Local Charge Files

1. Credits For Other Than Accepted Charge Resolutions:

Seven cases were reviewed in which the District Office awarded contract credits pursuant to section 4 of EEOC Order 916, Appendix A. This section provides that under specified circumstances contract credit may be awarded even though EEOC is not accepting an FEPA final finding.

In five of the seven cases, contract credit was awarded pursuant to section 4(I)(E), which provides that deferral charges closed by EEOC because of the issuance of a Notice of Right to Sue, will received contract credit if the FEPA has conducted a "substantial investigation" at the time of EEOC's issuance of the Notice of Right to Sue. **However, our review of these five files disclosed no documented evidence that the FEPA file had ever been reviewed or that the FEPA had conducted a substantial investigation.** 2/ Furthermore, an examination of the corresponding ledger cards indicates that, **for at least two of the cases, it is highly unlikely that the FEPA conducted a substantial investigation.** These ledger cards indicate that on the date the FEPA was awarded the two contract credits, the two cases had been in the FEPA's workload a total of twenty-three days for one case and thirty-one days in the other. 3/

These cases were discussed with the State and Local Coordinator who indicated that she had reviewed the FEPA files on-site, but had understood the concept of "substantial investigation" to mean that, in a given case, the FEPA has done all is can in the time it has had to process the case. Using this definition, it is conceivable that a FEPA could be awarded a contract credit for assigning to an investigator a case it received only two days earlier. We do not believe this construction was intended and recommend that your Office develop some broad guidelines for identifying when an FEPA's work product will be deemed to constitute a "substantial investigation. In doing so please keep in mind that in some types of "additional credit" actions your Office will need to continue to process the case. Therefore, we recommend that in developing your guidelines you focus on how much of your resources would be expended if you had to complete the investigation, irrespective of whether you in fact have to do so.

Additionally, in none of the seven files was there adequate documentation of the District Office's review of the FEPA's investigation. Although all of the files contained an EEOC Form 214, some of these forms were not signed by the reviewing official and/or the approving official and none contained a review of the evidence obtained by the FEPA. Under the circumstances, we must conclude that **necessary information is not being made available to the approving official.** Therefore, we must inquire on what bases can the approving official express concurrence or nonconcurrence with a recommended action? This identical concern was addressed in our August 21, 1985 field trip report. However, since the problem remains, we will repeat our recommendations. When conducting additional credit reviews pursuant to sections 4(I)(C), 4(I)(D), 4(I)(E), or 4(I)(F) of EEOC Order 916, Appendix A, please instruct your staff that a memorandum to the file is to be prepared (EEOC Form 214 may be used for this purpose) which:

a. identifies the reason(s) for conducting an additional credit review;

b. indicates whether the review is authorized under EEOC Order 916 and cites the appropriate section;

c. provides a general outline of the information obtained by the FEPA in it investigation and identifies what, if any, information is needed to complete the investigation;

d. contains a concluding statement recommending that contract credit should or should not be awarded; and

e. is signed by both the reviewing and approving officials (note: the approving official should be a GM-13 or above).

Because our review indicates that contract credits have been awarded under circumstances other than those authorized by section 4, it is necessary that your Office immediately begin reviewing all files receiving a section 4 credit in FY-86. Each case file should be reviewed to determine if:

a. the review was authorized under section 4(I)(C), 4(I)(D), 4(I)(E), or 4(I)(F) of Order 916; and

b. (if the above is answered in the affirmative), the FEPA investigation had been completed or nearly completed, depending upon the specific section cited as authority for the additional credit (note: under section 4(I)(C) the FEPA investigation must be complete in order to receive contract credit).

Additional contract credits accorded to the FEPA in FY-86 under circumstances other than those enumerated in section 4 of EEOC Order 916, will have to be rescinded and manually prepared reports corrected.

Once you have completed this task, please prepare a report addressed to me certifying:

a. the total number of cases files reviewed and the corresponding charge numbers;

b. the total number of case files and the corresponding charge number for each file in which a contract credit previously awarded was found to be improperly authorized and, therefore, rescinded;

c. that all necessary corrections have been made to the charge lists, the EEOC Monthly Statistical Reports on FEPA Contract Performance, and FEPA Monthly Performance Reports;

d. that you have notified the affected FEPA of the corrections; and

e. that you have provided the affected FEPA and Headquarters with copies of the corrected reports.

This report should be received by my Office no later than August 29, 1986.

In four of the five cases in which the charging party's request for the issuance of a Notice of Right lead to the additional credit review, we also noticed that rather than issuing the notices in the State and Local function, the files were reassigned to the Rapid function for closure. Since we see no programatic justification for such a procedure, it would appear that the intent is to inflate RCP production figures. We discussed this finding with one of the Compliance Managers, who informed us that he recently became aware of the practice and has had it discontinued.

2. Substantial Weight Reviews:

We examined eight substantial weight review files and noted a number of serious problems. In the first two files the FEPA no jurisdiction findings were accepted and credited. The charges were filed by a married couple against Park manor Apartments and closed because the wrong respondent had been named. However, the fact that the wrong respondent had been named is evident on the face of the charge, which alleged a violation date of April 28, 1985 and indicates that..."In 1984, the complex was sold to Growth Equities, Inc.". 4/ Therefore, pursuant to section 2(I)(E) of EEOC Order 916, Appendix A, contract credit should not have been given. This section provides that EEOC will not give accepted closure credit for charges closed for lack of jurisdiction unless an investigation was required to determine this lack of jurisdiction.

In pursuing this matter further, the identical charges filed against Growth Equities were also reviewed and we found the FEPA had received contract credit on these submissions as well. In other words, the FEPA was paid twice for the same cases. We also noted that the FEPA's "Closing Transmittal" submitted to the District Office is misleading. This document indicates the following:

> "This complaint was taken against the wrong respondent. The claimant has been notified and a new complaint (has been) taken against the correct respondent."

Upon reading this, one is left with the impression that a new charge was take after the error was discovered. However, an examination of the records indicates that all four charges were taken on the same date (i.e. May 22, 1985).

A similar type problem was noted in another charge filed against K-Mart Corporation. As in the previous cases, the FEPA's no jurisdiction finding was accepted and credited. The FEPA documents indicate that the wrong respondent was named and a copy of the new charge naming the correct respondent was submitted as an attachment. However, the correct respondent, as identified in the new charge, is K-Mart Apparel Corporation, which appears to be a subsidiary of the K-Mart Corporation. 5/ Therefore, contract credit should not have been awarded on the initial charge. In circumstances such as these rather than taking a new charge, the original charge should be amended.

Because our findings indicate that in some instances no jurisdiction findings are being credited contrary to the requirements of Order 916, double payments have been made, and there may be some remaining cases in deferral in which a double payment will be made, it is necessary that your Office immediately review all credited no jurisdiction findings for FY-86. All no jurisdiction findings receiving contract credit contrary to the requirements of Order 916 or receiving double payments will have to be rescinded.

Once you have completed this review, please prepare a report addressed to me certifying:

a. the total number of case files reviewed and the corresponding charge numbers;

b. the total number of case files and the corresponding charge number for each case file in which a contract credit was rescinded;

c. that all necessary corrections have been made to the charge lists, the EEOC Monthly Statistical Reports on FEPA Contract Performance, and FEPA Monthly Performance Reports;

d. that you have notified the affected FEPA of the corrections; and

e. that you have provided the affected FEPA and Headquarters with copies of these corrected reports.

This report should be received by my Office no later than August 29,1986.

C. Case Management

1. Unit Inventory/Case Distribution:

An examination of a May 27, 1986, printout revealed that there are some sixty-eight ADEA and nine ADEA concurrent cases in the Office's inventory in which the two year statute for filing suit has expired. Sixty-nine of these cases are in the ECP function, of which fifty-three are assigned to one investigator. As of the date of the printout, the number of days over the two year period ranged from three days to six-hundred and five days. It is evident from this data that an effective monitoring system of the ADEA two year statute has yet to be implemented. Additionally the large number of ADEA cases in the ECP function continues to be a source of some concern. As noted in our April 10, 1985, field trip report:

> "Absent a showing that these charges had some reasonable litigation potential or were being processed as class charges, this concentration of ADEA charges in the Extended function is unwarranted."

Therefore, we recommend that your Office immediately:

a. identify all cases in which the time limit for filing suit has expired and prepare a plan of action to expedite their processing;

b. establish an effective system for monitoring the ADEA two year time limit for filing suit;

c. review the ECP inventory and identify all cases which are appropriate for RCP processing and code them accordingly; and

d. develop a screening system to assure to the extent practicable, that charges forwarded to the ECP unit are appropriate for extended processing (note: one possibility you may wish to examine is the "Screening Committee System used in the St. Louis District Office").

Once these actions have been taken, your Office will be left with a leaner more focused ECP inventory and a system for assuring that cases coming into the function at least have some potential for contributing to the Office's litigation program.

2. Case Load Management

Except for the deficiencies relating to the management of ADEA cases referred to above, we note that your Office has made significant improvements in managing its case load. Supervisors appear to be conducting regular periodic meetings with their professional staff in order to discuss the status of charges assigned to their units and affect the quality of final products. Furthermore, the data indicates that supervisory personnel are attempting to manage total processing time by setting target dates for the completion the distinct phases of investigations. In short, it appears that your Office is moving in the direction of establishing an effective case load management system. However, we suggest that your Office can make more effective use of the system by adopting a "workload management approach" to the system, rather than a production orientation. We observed that reports to upper management generated from the operation of this system, mainly focus on what has been produced. To the extent that production, in the past tense, becomes the sole focus of information, management is limiting its ability to project what can be produced in the short term and therefore its ability to manage those anticipated products. What we are suggesting is that supervisory personnel provide upper management with periodic "workload status" reports. For instance, supervisory personnel can provide upper management with unit reports at the beginning of each quarter which reflect:

a. anticipated closures and corresponding outcomes by month for the next three months;

b. the status of cases already identified as have litigation potential;

c. information relating new potential litigation cases; and

d. information relating to unusual problems such as a large number of unassigned cases or 300 day cases.

With this type of information management can set its priorities and make necessary adjustments to meet office needs, rather than having to react to problematic situations after they occur.

3. Production Improvement Project

The preliminary data on your Office's improvement project indicates that it has the potential for both increasing RCP productivity and reducing the 300 day inventory. However, we note that the number of cases identified for consolidated processing is relatively small. We, therefore, suggest that you identify cases involving other respondents for similar treatment.

4. Compliance Legal Coordination

Although we recognize that an effort is being made to improve the coordination of cases between the compliance and legal functions, a significant amount of planning and execution remains to be done. Throughout this report we have been discussing a number of related areas which will affect your Office's ability to establish and maintain an effective coordination system. These involve such things as maintaining an focused ECP inventory, identifying potential cause cases from all possible sources, and obtaining periodic work load status reports. Elements such as these provide a necessary foundation upon which to build and as alluded to earlier we note that the process has begun. It is our understanding that an attorney has been assigned to each compliance unit as a resource person and the Legal function has established a format for documenting evidentiary reviews of cause recommendations, which should provide compliance personnel useful feedback. However, in order to maximize the effectiveness of your system, the Legal function must take an active role in the processing of potential cause cases as early as possible. A two way communication system must be maintained, so that the Legal function does not have to wait from compliance to initiate a contact in order to become involved in the process. For such a system to succeed, the Legal function must be provided with and maintain basic charge status data on potential litigation cases in the system. Information such as that suggested in the work load status report (i.e. the status of cases already identified as having litigation potential and the status of new cases believed to have litigation potential) provides a basis on which to initiate contact and affect the development of cases.

D. Conclusion

As this report reflects, although your Office has implemented significant operational improvements, there remains a number of areas which require your immediate attention. Please review this report with your compliance and legal management staff and prepare a memorandum addressed to me, outlining in detail the direction you intend to take in addressing the concerns cited in this report. Your report should be received by my Office no later than August 29, 1986.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

CDS

TO: John Seal, Director
Office of Management

James Troy, Director
Office of Program Operations

FROM: Field Support Planning Group

SUBJECT: Field Support "Talking Paper".

Attached is a "Talking Paper" put together by the recently convened Field Support Planning Group. It not only talks to future possibilities and directions in office automation development and the need for an overall planning structure, but also speaks to items which are in critical need of immediate attention in order to avoid serious degradation of the recently implemented CDS program and provide a more orderly method of arriving at equipment purchase decisions.

Examples of items needing immediate attention are:

Placement of a qualified MIS in each District Office.

Development of an Information Resource Management planning document.

We recommend dissemination of this "Talking Paper" to all district directors with a request for feedback within a definite time frame.

THE EEOC FIELD OFFICE OF THE FUTURE

This paper was prepared by a field support study group composed of Lynn Brunner, District Director, St. Louis; Ed Elkins, Acting Director, Charlotte; Phil Goldman, Systemic EOS, Philadelphia; and Bob Lindquist, MIS, Seattle, and addresses:

A. Office Automation for the field - where we expect to be within five years.
B. Prioritization of efforts necessary in attaining our five year goals.

I. PRIORITIES

There is general agreement concerning the capabilities, hardware, software, and systems that should exist in a fully automated district office. In order to achieve the goal of full automation, however, it is necessary to develop a plan of operation by which all affected headquarters offices and all field offices will be guided. This plan should establish full field automation as the goal to be achieved within five years, and should establish operating priorities for achieving that goal. Our suggestions for the order of operating priorities are as follows:

A. Planning: A planning, development, and implementation effort must be developed immediately for the purpose of delivering full automation to the field. This automation initiative should begin with an Information Resource Management Planning Group which would be responsible for developing a five year plan for the management of the Commission's information resources. The Planning Group should be followed by an oversight committee, composed of representatives at the highest levels of management within the agency. The oversight committee would provide coordination with all headquarters components which control or make input into the allocation of resources to the field, and would be able to make decisions concerning whether a particular resource being planned for the field might better be diverted into the area of field automation. The IRM planning group and oversight committee will ensure that District Directors have input into the decisions made by each group.

For example, the IRM planning group and field directors should have the opportunity to decide whether typewriters should be purchased for a given district, or whether the purchase of PC/XT's would be more desireable. This option should also be available in relation to the purchase of other equipment on behalf of district offices by any headquarters office.

To achieve this, it will be necessary to identify all offices and divisions which make decisions concerning the purchase of goods and services for the field, and to secure information concerning the acquisition plans of each of these groups for the next five years, to the extent that such plans already exist, or are mandated by practice or regulation. Where plans have not been developed, these offices should be required to coordinate any plans for acquisition of equipment with the IRM planning group and the affected field directors. This will allow for better utilization of resources.

B. Communication: As plans are developed, these must be communicated to field offices, so that field directors can make informed decisions concerning the utilization of existing equipment. This should include a calendar of known activities and decision points for the next five years.

C. Planning Mandate: The mandate of the IRM planning group should be broad enough to include Automated Data Processing, telecommunications, resource management, procurement, personnel, and organizational structures necessary to accomplish planned goals. Full use of the hardware and software which already exists in the field should be a major factor when planning for the acquisition of additional equipment. This would include the full and effective development and staffing of the Management Information Specialist function in each District Office, planning for training of field office personnel in the use of Word Perfect, Lotus, R-Base and other appropriate software, and in basic computer maintenance; assisting offices in developing computer support systems within their office; completing the development of the CDS program, including debugging; and developing the programs and expertise necessary to integrate the NCR and IBM equipment into a multi-user system.

II. THE FUTURE

The EEOC field office of the future (by 1992) will be fully automated.

A. CHARGE DATA/PROCESSING SYSTEMS

When a potential charging party walks in the door, the receptionist will take all relevant information, e.g., name, address, potential respondent name and address, etc. and enter such data in a tracking system. Where possible, similar data will be obtained and tracked on phone and mail inquiries.

The EOS taking a charge will obtain all remaining data necessary to complete EEOC Form 155, entering this data into the CDS system via a terminal at his or her desk. The body of the charge will be typed by the EOS and the Form 5 and Form 155 will be produced by the CDS system. (The system could also produce other documents for establishing a case file, e.g.,log sheet, label, etc.) Within ten days of receipt of the charge, the EOS will develop the Respondent Request for Information, using an integrated CDS and word processing system. He/she will key in the charge number and the system will produce on the terminal screen (through a "merge process") a draft RFI using the indicated basis(es) and issue(s). The EOS will edit this draft on the terminal and, where necessary, develop additional questions addressing the specific allegations of the charge. The RFI is printed; the Notice of Charge produced, a cover letter (if necessary) is generated, an envelope addressed, and the package is sent to the Respondent.

At this point, all basic charge data has been entered into the CDS system without any code or report sheets. As the charge is processed, the processing unit enters (through its own terminal) all appropriate action codes directly into the CDS system rather than preparing and forwarding code sheets. All standardized correspondence, forms, and records will be generated through the CDS system and other interactive software. Each processing unit will be able to produce for charges assigned to it reports of charge status, closures, pending inventory, etc. for supervisory and EOS review and verification.

EOS's will have access to terminals (eventually one for each employee) which they can use for their own case tracking/tickler system and for charge data analysis. If they wish, they can use the word processing capabilities to produce case documents, letters, Investigative Memoranda, etc.

All its Area and Local Office and 706 Agency data will be readily accessible to each District Office.

Any required reports (such as the current 396 reports) will be generated by the CDS system with Headquarters having the capacity to produce such reports in Washington.

B. OTHER COMPLIANCE AND LEGAL PROFESSIONAL APPLICATIONS

When considering computer applications, we must not lose sight of the Congressional mandate given to this agency under the various statutes that we administer. While it is indeed essential to the overall operation of this agency to keep track of its productivity and financial responsibility, we need to consider our underlying mission--the elimination of unlawful employment discrimination. Accordingly, a need exists for developing computer applications for our compliance and legal professional staff beyond basic word processing to move closer to achieving the high goal set for us.

The collection of relevant data is one of the most important functions performed by the compliance and legal units within each district. It must follow, then, that the analysis of that data is equally, if not more, important to our compliance and litigation activities. Compliance and Legal Units require the capability to manipulate data received from employers in many different ways in order to determine an employer's compliance activity and to determine whether or not there is statistical significance to certain actions taken by an employer which result in an adverse impact against one or more protected classes. A good start for interfacing computer applications with compliance and legal professional staff would be to acquire a good statistical software package with database and graphics capability. This type of software would be especially useful in the area of pattern and practice and Commissioner Charge investigations and litigation. Clearly, this type of application would result in a more rapid movement of cases and a more advanced degree of analysis resulting in the enhancement of our enforcement responsibilities. The graphics capability is a must in that it more easily allows one to visualize the statistical arguments being presented, as well as its proven ability to be a persuasive piece of evidence at trial.

Another important way to increase productivity and enhance charge processing and litigation would be to subscribe to services such as Westlaw. This service would allow compliance and legal personnel to research issues and/or cases more rapidly with a greater degree of accuracy. For example, by using simple key words, one is able to obtain a list and summary of all reported cases litigated on a particular issue or basis in a matter of minutes. That same kind of "book" research could take hours or days. If such a service is available for CCH or BNA employment practices volumes, they should be acquired as well. The more the better.

The foregoing should be the basic step in introducing compliance and legal professionals to computer applications. There are many other applications out there that would lend themselves to create a more rapid movement of cases while increasing the level of reliability of the data and analysis presented and, thus, an increase in the quality of our work products.

C. ADMINISTRATIVE SYSTEMS

Personnel--There will be a locally controlled personnel management data system which will track, inter alia, leave, payroll information, grade, series, career ladder promotions, etc. and will produce 90 day notices to supervisors of employee's anniversary date GPAR/PMRS appraisals and within grade increases. The system could be used for preparing RIF retention registers and provide retirement information and calculations under the various retirement options. Time, attendance, and leave data will be electronically transmitted to the payroll processing unit, making manual completion and mailing of time cards unnecessary.

Cuff Records/Purchase Orders/Supplies--There will be an automated system for generating, tracking and managing local purchase orders. This system will interface with an efficient automated cuff record system. Keeping track of supplies and supply utilization will be greatly improved with the use of computer applications.

Other Local Tracking Systems--Each office will have tracking systems for correspondence, Congressional inquiries, non-routine work assignments, litigation projections. Such systems will be developed locally by technically expert Management Information Specialists and tailored to the specific needs and wishes of the office's management.

D. ELECTRONIC MAIL/COMMUNICATION

Each office will have the capacity to electronically communicate and transmit data, documents, etc. between Headquarters, other EEOC field offices and 706 agencies.

E. OTHER

To increase the utility of its word processing systems, each office will have an optical character reader/scanner which is capable of incorporating printed materials into electronic/word processing data.

Each office will have graphics capability to improve the quality of its communications, reports, newsletters, etc. As part of this capability, each district office will have at least one high speed/quality laser printer.

Each office will have at least 1 Laptop/Portable Computer for off-site use by its staff.

III. THE OFFICE MANAGEMENT INFORMATION SPECIALIST

Each District Office will have a qualified Management Information Specialist who will function as manager of information systems not only at the District Office but will also oversee information systems operations at all Area Offices and state and local agencies as well.

The position will be situated functionally so as to be able to effectively take responsibility for and exercise control over the District information processing and reporting systems. This person will be the key contact point within the District area for the Headquarters ISS Director and Area Office and state and local SAs.

POSITION CHARACTERISTICS

EVALUATES	Existing District Office information systems; accuracy and currency of District and FEPA data files; future information and reporting needs; existing report generation in terms of continuing need and appropriateness; the need for additional hardware/software and the appropriate hardware/software to meet District and local needs; conducts system audits utilizing systems of testing and sampling sufficient to express an opinion as to the reliability of the overall MIS system.
DEVELOPS	Improvements in District weekly, monthly and quarterly reports; continuous and smooth information flow between the District Office and Headquarters and FEP Agencies; systems to insure accuracy and timeliness of Case and Legal tracking reports; systems to insure security of sensitive and confidential data.
TRAINS	District Office clerical staff in use of agency-supplied word processing software and PC equipment; CDS input operators; professional staff in PC use and in the use of spreadsheet, data management and word processing software; FEPA staff in CDS-HERO and data control procedures and in the development of agency-specific management and statistical reports.
FUNCTIONS	As chief coordinator of CDS and HERO systems operations; the central computer resource person in the District area; the District's representative on systems design teams at both the District and Headquarters levels; as a member of the District Office management team and member of the District IRC; functions as a general computer systems consultant within the area served by the District Office..
SUPERVISES	Chief Data Entry and other Data Entry clerks with respect to the CDS system; operations of the Records Control function; hard and soft inventories of active charges on hand.
REPORTS	To the District Director with responsibility to the Headquarters ISS Director on District matters.

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The advantages of personal computers to District Offices is unlimited and the following is but a small sample of the type of applications that could provide increased productivity with a higher level of quality. Therefore, it is extremely important that each District Director be given the opportunity to comment on and help plan computer applications that will enhance the overall operation of the agency.

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8/19/86

CDS NEEDS
FY 1987

The following outline represents the consensus of the staff that participated in the CDS Planning meeting held at HQS on August 17/18, 1986. The outline is divided into three categories; category I is the absolute minimum level of support to make CDS minimally operational; category II is the additional support and modification required to make CDS meet field needs; Category III is the additional support needed to continue the development of CDS into a fully operational system.

I. CDS Minimum Level

1. Data Entry Modifications - ISS to make the necessary program changes to facilitate the entry of data into CDS. This would be a continuing effort in FY 87.

1a. Supplies- OPO and OM ensure that FY 87 budgets contain sufficient funding to provide computer supplies for all field computer users.

2. Corrections Utilities - ISS to provide the necessary system changes to provide the field with the ability to correct data entry and records errors. The utility must be distributed to the field in October,1986.

3. Purge Utilities - ISS to provide the necessary system changes for deletion of records in the local data base.

4. Mini file Utilities - Iss to provide the necessary system changes for operation of area/local office and FEPA mini file data transfer to district office data bases.

5. Collection Manager - ISS to implement the collection manager system for creation of the National Data Base by November 1,1986.

6. Reports - ISS to finalize the design of CDS reports for field and headquarters use that were part of the original design group recommendations.

7. 396 Reports - ISS to finalize the programming for the generation of 396(MAP) reports from CDS.

8. Field ADP Staff - District Directors and OPO to define job descriptions and functional classification data for field staff responsible for the operation of CDS and all

other related ADP functions in the District/Area/Local offices. OPO and OM to initiate classification studies to meet field needs as defined.

9. Training - Training to be provided to all field staff that operate CDS to meet a minimum level of proficiency and knowledge. Training provided by ISS, STDT, and OJT should be completed by end of 2nd qtr, FY 87.

9a. Hacker's Meeting - the present informal network of the computer-literate staff in various district offices should be formalized into regularly scheduled meetings for exchanges of information, suggestions for modification and improvement of CDS, and suggestions for training to be shared with the field, with OPO and ISS.

9b. Improved Communications - Communications between ISS and OPO need to be significantly improved during the development of CDS in FY 87. OPO needs to be notified of any impending design changes and modifications to CDS for evaluation of impact on field operations and resources.

II. Additional Support & Modification

10. District/Area/ Local Communications - the Mini file system should be improved and modified as needed during FY 87 to facilitate communications between the District Office and its satellites' local data bases.

11. FEPA Communications - The Mini file system should also be modified and improved as needed to facilitate data transfer between FEPAs and their EEOC offices. A study should be made to define what documents must be maintained as hard copy, and what documents can be generated and transmitted electronically. Policy must be defined for dealing with FEPAs that do not buy into CDS/EEOS.

12. Automatic Form Generation - A study should be initiated to define system needs and enhancements to CDS to provide the automatic form generation originally defined in the CDS Design Group report.

13. Hearings - CDS should be modified to maintain the Hearings data in a separate file under CDS, rather than as part of the compliance charge file. Data entry screens add actions, and case tracking would be patterned after the present Charge Entry and Add Action files, but they would be another file independent with its own codes and fields directly related to the Hearings process.

III. Fully Operational CDS Support

14. Outside Experts - EEOC should conduct a study of CDS utilizing outside experts(Federal or private) to help define the additional needs of CDS to meet the original design objectives of CDS.

15. Additional Hardware - The field offices should be provided with additional terminals and other hardware as needed to facilitate the operation of CDS.

16. NDB - the national data base should be maintained in an in-house minicomputer for ease of operation and cost saving.

17. Communication - CDS should be enhanced to provide full communication between Headquarters and field office data bases.

18. System Evolution - OPO and I3S should fund initial studies of a second generation system for EEOC data base and information management.

READERS FILE
SEP 16 1986

MEMORANDUM

TO: Joseph P. Bennett, Director
Region II Programs

FROM: Lynn Bruner
District Director

SUBJECT: Kansas City Area Office

Upon my assignment to the St. Louis District Office, I received a briefing from your office regarding the operation of the District. A Regional audit had been conducted in February 1986, which identified serious deficiencies in the management of the Kansas City Office, as well as in the quality of case closures. A follow-up audit was conducted by Ralph Soto and Truman Harris on August 21 through 25, 1986, and although I have not yet received a written report of their findings, they did advise me that conditions [illegible] appeared to be the same as those reflected in their February audit.

I have reviewed the overall management approach in place in Kansas City, and have decided to implement some changes which I believe will help to correct the problems which have been identified by your office. These changes include a redirection of Kansas City management's philosophy in relation to case processing; changes in personnel and management accountability systems; and changes in staff assignments.

I. STAFFING

A. Intake

The projected Kansas City intake for FY86 is approximately 1921 charges. However, of these, 180 were against the same Respondent. Thus, absent these charges, the intake will be around 1643 charges, which is somewhat higher than FY 85. There has been a significant increase in intake during July and August. We cannot know that this trend will continue, but for purposes of projecting FY87 intake, we will assume the same intake as in FY 86/of approximately 1650 cases.

The present Intake staff in Kansas City consists of three assigned EOS's: One GS-5, and two GS-9's. One of the GS-9's, Ms. Marjorie Jackson has been on extended sick leave since March 19, 1985, and the unit has been operating with two full-time ECS's, using RCP/ECP EOS's as backup. Total staff time committed to Intake has been approximately the equivalent of three EOS's. Since Ms. Jackson is severely ill, it is unknown when she will return to work, or whether her doctor will allow her to work full-time when she does return.

There is no Intake Supervisor, and the unit has been supervised by Cliff Hill, who also supervises the only Extended unit in the office.

At three EOS's, the average intake per EOS is 550 charges! This is well above 350, which is the highest processing assumption for charge intake that has ever been officially imposed, and far above the 270 PA which was in the CPAD's back in the days of production standards. Moreover, until July 1986, Intake was processing a large number of 706 charges. Through June 1986, they processed 756 such charges.

In order to keep up with their workload, the Intake EOS's and back-up EOS's were instructed to keep [redacted] and to take minimal notes. As a result, most Intake files include only one page of notes, and the notes usually contain no more information than the charge itself. Deficiencies in charge intake were noted in the Regional audit.

To remedy this situation, I have detailed two RCP EOS's to the Intake Unit for a period not to exceed 120 days. The Union has been notified and all other necessary action taken. These individuals are Anita Hawkins GS-7, and JoAnn Jackson, GS-5.

With these details, the average intake per EOS will be approximately 413 each, which is still very high. However, it represents a significant improvement, and should allow the EOS's to slow down a bit, and improve the quality of the charges.

To assist further in improving our charge quality, I am asking John Myers, RCP Supervisor, GS-13, to serve as supervisor of the Intake Unit on a temporary basis. (This will be handled so as not to affect his grade level.) In addition, James Neely has agreed to provide training in Interviewing Techniques to the Kansas City Intake staff.

I realize that the above reassignments are temporary in nature, and therefore, do not provide a permanent solution to the staffing problem. However, these are the only actions within my scope of authority, which I believe will help to relieve the situation.

Any more permanent solution to our staffing problem must be approved at your level. Accordingly, I have enumerated below the various options which I see as being available to higher-level management, along with my recommendation as to the most desirable option.

1. Allocate two additional Intake EOS positions to the Kansas City Office, and allow us to fill the existing supervisory position.

I see this as being the most desirable solution, since it would place the Kansas City office on a par with other districts by more nearly matching staffing with workload.

To illustrate, if two new slots are provided as of October 1, 1986, we will start the FY with four EOS's. If Ms. Jackson does not return, this will mean an average intake of 413 charges per [redacted] mean an average intake of 330 charges per EOS. Since half the EOS's, and the supervisor would be new to the job, the 330 figure is much more reasonable.

2. Change the PD of the Extended Supervisor to include supervision of the Intake Unit, and increase his processing assumptions to the level of 330 charges per Intake EOS.

I do not recommend this approach for several reasons.

a. The permanent assignment of GS-11 duties to the GS-13 supervisor may erode his grade level.

b. To require a supervisor to supervise more than one functional area places him at a [redacted] compared to other

c. A processing assumption of 550 charges per EOS seems outrageously high as compared to other offices and places Kansas City and District management at a disadvantage.

d. A processing assumption of 550 charges per EOS would lead to quality problems, as noted in Region's audits of February and August 1986.

3. Change the quality standards for Intake of charges to allow more quality problems to exist in Kansas City (given the high intake per EOS) than is allowable in offices with a lower charge intake per EOS.

While this approach would certainly be fair to EOS's and to Local and District managers, I do not recommend it. The consequences of a high error rate in Intake can be quite damaging to the quality of subsequent processing, and ultimately to the mission of the Agency.

B. EXTENDED

The pending inventory in RCP as of July 31, 1986, was 169 charges. With three EOS's in the unit, each carried a workload of approximately 54 case--more than a year's work at the "Outstanding" level of production.

The expected EXT charge intake for FY 87 is approximately 240 charges, (15 percent of the expected charge intake). The expected pending inventory at the beginning of the FY 87 is approximately 180.

With three EOS's, the office has been unable to adequately process the extended workload, and as a consequence, some extended-type cases are being processed in RCP, some are in the unassigned backlog, and each Extended EOS is carrying too great a workload. Almost every extended case processed in Kansas City is already 300-days-old or more by the time the LOD is issued.

It is my belief that all RCP cases should be assigned and processed immediately upon intake, so that the evidence does not grow stale. Rapid processing of these cases is also critical to the success of our litigation program.

As can be seen from the above, the Extended inventory for FY 87 will consist of approximately 427 cases (180 pending plus 247 receipts). To process this inventory at the highly effective level of 45 cases per EOS, with a 4-month carry-over inventory, would require a total of seven EOS's.

To help alleviate this situation, I have instructed the Kansas City Office to immediately transfer the equivalent of one staff-year of work (45 cases) to the St. Louis Office. In addition, I have reassigned one RCP EOS to the Extended Unit, Mr. Stan Epstein.

Even with the addition of one EOS, and the transfer of one EOS's workload, the Extended Unit would still be understaffed for FY 87 by approximately two EOS's, assuming production at the Highly Effective level. In view of this situation, I am requesting that we be allowed to fill one of the two vacant Extended positions. (Stan has already filled one). This will allow us to process all the new charges received in Extended on a timely basis, and without any cases being transferred to St. Louis throughout FY 87.

In assigning one EOS to Extended, I have taken all the action which is available to us at the District level. Following are the options which I see as being available, together with my comments as to the advisability of each:

a. Allow us to fill a vacant EOS positions in the Extended Unit, for a total of five EOS's.

This is the solution I recommend, since five EOS's are required to handle the existing workload in a timely manner, assuming current processing assumption.

b. Increase the Extended Supervisor's processing assumptions to the level of 72 per EOS per year. I do not recommend this approach, since I do not believe quality cause cases could be produced. This would adversely affect our litigation program.

c. Abandon the "Extended" approach on 5 percent of the Extended inventory, and process them as RCP cases.

I do not recommend this approach since it would not represent appropriate handling. In addition, we would not be able to use these cases in meeting our litigation goals. This would also increase our RCP backlog.

C. RAPID CHARGE PROCESS (RCP)

The projected receipts in RCP for FY 87 are 1400 and the projected pending inventory as of the beginning of Fiscal Year 87 is 1640, with approximately 440 of these assigned.

As of August 30, 1986, there were nine EOS's assigned to RCP. As of September 3, following the temporary and permanent reassignments discussed above, there are 6 EOS's assigned to RCP. These EOS's are all being supervised by one Supervisory EOS, Lois Douglas.

To process the 1640 charges in RCP in FY 87 (1400 receipts, 400 assigned), the Kansas City Office would need a total of 11.8 EOS's with all of them producing at the Highly Effective level of 102 cases each, and with a carry-over inventory of 36 cases. [illegible] 85 cases per EOS, and with a carry-over inventory of 36, we would need 13.5 EOS's.

Assuming my request for two additional EOS's in Intake is granted, the two RCP EOS's who are now temporarily detailed to Intake, can be returned to the RCP function for a total of eight RCP EOS's.

Even though it may be unrealistic to assume that all EOS's will work at the Highly Effective level, and particularly trainees, I am willing to take the risk that we would be able to achieve these results through the use of innovative management techniques. Accordingly, I am requesting that we be allowed to fill the three vacant positions currently existing in RCP, and that one additional EOS position be assigned, for a total of 12 RCP EOS's.

It is noted that even with twelve EOS's, the Kansas City Office will not be able to even touch the 1200 unassigned cases which will be pending as of October 1, 1986. To completely process this workload within a year's period, we would need another 11.7 EOS's, all working at the Highly Effective level of 102 each. We would also need additional supervisors.

However, it is impractical to staff up for only a year in order to handle the total FY 87 workload of 3040 (1200 pending unassigned, plus 440 assigned, plus 1400 receipts). I believe a better solution would be to transfer the 1200 cases to other offices for processing. I am aware that there are offices in the Commission which are severely over-staffed. Presumably, these offices would welcome the addition to their workload.

If it is impossible to transfer the pending cases, then perhaps we could be allowed to hire temporary EOS's (NTE 1 year) in order to handle some or all of the 1200 cases. I note, however, that the transfer of these pending cases would be a more desirable solution.

It should be emphasized that the Kansas City Office has used innovative approaches in an effort to control its enormous workload, and when adjustments are made for the time spent by RCP EOS's for assisting in Intake, for processing Extended-type charges, for answering status calls on the unassigned backlog, for preparing RFI's on unassigned cases, and for other special projects, they are still producing at or above the "outstanding" level. 1/ However, this high production has been accompanied by an unacceptably high error rate in charge closures, as determined by Region's audit.

Again, I have taken all steps related to staffing which are available to me at the District level, and which I believe will achieve the desired result of allowing us to continue processing at least at the Highly Effective level, and at the same time, improve the quality of our case closures. I do not believe it would be possible to keep the level of productivity at above the "Outstanding" level at this time, considering all factors at play in the office. Moreover, I assume that the processing assumptions represent a dynamic tension between quantity and quality which cannot be pushed beyond a certain point.

The options which I perceive to be available at your level are as follows:

1. Increase the RCP staff by four permanent EOS's and transfer 1200 cases to other offices for processing.

   This is the solution I recommend, since it will allow Kansas City to complete the FY 87 receipts on a timely basis, and will allow other offices to complete the pending inventory on a timely basis. Other offices could be granted waivers on all cases which were over 300-days-old upon receipt.

2. Increase the RCP staff by adding four permanent EOS's, 12 temporary EOS's, and two temporary supervisors (NTE 1 year).

   I do not recommend this solution, since training time is a problem, and since major transitions usually create personnel problems.

3. Increase the productivity assumptions of Kansas City Management to a level of 470 charges per EOS per year through FY 87, then to 230 per year thereafter.

   I do not recommend this solution for reasons outlined in Item No. A.2 above.

4. Increase the allowable error rate so that productivity can be increased to a level that would reduce the backlog.

   I do not recommend this solution for reasons outlined in A.3 above.

5. Allow the RCP backlog of 1200 cases to grow to 1900 by October 1, 1987, and increase the percentage for allowable 300 day old cases to 100 percent, since within a month or two, all cases in Kansas City RCP will be over 300 days old upon assignment.

1/ Unfortunately, the staff availability figures on the 396 staffing charts were not adjusted to reflect the manner in which staff were being utilized.

I do not recommend this solution. An inventory of this size creates numerous management and processing problems, as discussed above.

II CASE MANAGEMENT

A. Charge Processing Identification

Since the manner in which a charge is processed (i.e., ECP, RCP, ELI) determines the resource investment in that case, I believe it is essential for the top management officials in an office to determine processing. In line with this objective, I have instituted a procedure in Kansas City whereby Joe Doherty will review each charge as it is taken and will determine how the charge is to be processed. It should be noted that his input is confined to resource-related issues. The supervisor is still responsible for the technical sufficiency of the investigation and closure.

Since a large backlog of unassigned RCP cases already exists, it is unlikely that any of the new RCP charges will be directed to the RCP unit for assignment under present conditions. Those RCP cases which cannot be assigned for the foreseeable future will be added to the backlog.

Each RCP EOS presently carries an average of 60 cases in their workload. This is approximately 7 months of work at the Highly Effective level of production. Thus, it will be around 3 months before the present EOS staff will need new assignments. Our goal is to keep the average workload at approximately 35 cases, with a maximum of 40, except in unusual circumstances.

Since February 1986, the office has had the practice of sending out RFI's on all cases, irrespective of whether the case could be assigned. This has led to the existence of a large number of unassigned cases with RFI responses already in the file. There are approximately 860 cases in this category.

If my request to have 1200 cases transferred to other offices is granted, we could include in that group at least 500 which already have RFI responses in the file. This should sweeten the "take" a bit for the receiving office.

If my request is not granted, then we will draw from this supply of cases for any new RCP assignments. It should be noted, however, that unless the transfer is made, there will be enough charges in Kansas City as of October 1, 1986 to keep the present staff of six EOS's busy at the Highly Effective level of production for the next 25 months. At that rate, the typical charge received after October 1, 1986 would be 690 days old upon assignment.

I cannot stress enough the need for expeditious action at the Headquarters level to bring the Kansas City workload within manageable proportions. As discussed above, I believe these actions should be twofold:

1. Increase our Intake and EOS staff effective October 1, 1986.

2. Transfer 1200 charges to other offices for processing, effective October 1, 1986.

In the meantime, we will continue to review and stratify the charges for the most appropriate handling. Joe will use the following categories. The entire inventory will be entered in the PCRT and tracked as required:

(1) RCP

a. Routine RCP cases will be placed in the pending backlog.

b. RCP cases requiring TPO action will be identified, and discussed with Legal.

c. RCP cases that can be closed with little or no further action will be identified and closed immediately.

d. Age cases will be identified and flagged in the computer so that we can notify the CP before the lapse of the 2-year Statute of Limitations. However, these cases will also be placed in the pending backlog.

(2) ECP

a. All ECP cases received will be assigned immediately, up to a limit of 30 cases per EOS.

b. When the workload exceeds that which can be assigned, the excess will be forwarded to St. Louis for as long as possible.

c. All "possible ELI" charges will be sent immediately to TNC for review.

d. All Extended cases requiring TRO action will be discussed with Legal.

B. Charge Processing - Quality/Quantity

(1) Supervision

The RCP and ECP Supervisors are primarily responsible for the technical sufficiency of cases assigned to their units. The RCP Supervisor will have six EOS's in her unit until an Intake Supervisor is selected, which is a heavy load. However, she will have the assistance of a GS-12. The ECP Supervisor will have four EOS's (two GS-12's and two GS-11's).

With the two additional EOS's assigned to Intake, it is hoped that the RCP and ECP EOS's will not be called upon as often to take charges. I also believe it is necessary to relieve the supervisors of as many additional duties as possible so that they can spend more time directing and training their staff.

In your memorandum of January 30, 1986, you suggested that the supervisors be assigned to review responses to RFI's and complete the processing of cases, as a mechanism for controlling the growth of the inventory. The office has been doing this for some time now, although both EOS's and supervisors have participated. I fear that we will not be able to continue this practice much longer. The procedure is fruitful only where a case can be completed without additional evidence being secured, and even then, there is still a considerable amount of work to be completed. Files must be conducted, files assembled, IR's prepared and closure documents issued. All this work takes time, and interferes with the supervisor's ability to oversee the work in their unit and as a consequence, makes it difficult to properly evaluate their performance as supervisors. When the work is performed by EOS's, it simply overloads them.

As stated above, there are already 860 unassigned cases on which RFI's have been issued. There is simply no way the supervisors can process these cases and still be expected to perform their supervisory functions at an acceptable level. However, the Extended Supervisor will continue this function if time allows. With six EOS's, the RCP Supervisor will not have time to complete and close cases.

I believe you will find that most of the elements of your recommendations are present in the stratification approach described above. I should also point out that Joe is presently in the process of stratifying the backlog, as well as new receipts, which will have some of the same results anticipated in the above-referenced recommendations.

The growth of the backlog is a serious concern which you and I share with the Kansas City staff. A large backlog not only promotes ageing of the cases, but by its very existence, creates additional work which must be absorbed by supervisors, EOS's, and clericals. For example, numerous calls and letters concerning status are received from CP's, as well as from congressional representatives. Responding to these inquiries is time consuming, and is, in reality, nonproductive work.

In summary, my overall strategy for improving supervision is as follows:

(a) Re-emphasize Agency policy concerning quality and quantity of production.

(b) Conduct re-training of supervisors in area of burdens of proof and comparative evidence, as discussed below.

(c) Relieve supervisors of as many extra duties as possible so they will have more time to work with and train their staff, thereby improving quality of case processing.

(d) Increase the amount of time spent by supervisors with EOS's in preparing IP's thereby improving quality of case processing.

(e) Improve case tracking and case management systems and practices used by supervisors, as discussed below.

(2) Investigative Plans

The plan identified by Region has been in use since February 1986. However, supervisors will begin to work closer with their EOS's in designing their plans so that they become a more meaningful part of the investigation.

(3) Workplans

Supervisors will conduct monthly meetings with their EOS's to review the progress of each, and to establish new time frames as appropriate.

The EOS workplan will include instructions and time frames for each phase of the investigation, and EOS's will be measured in accordance with their ability to meet the plan.

Supervisors will be responsible for assigning and monitoring time frames, and for ensuring the quality development of each phase of the investigation.

(4) RFI's

As noted above, there are presently some 840 cases in-house which already contain RFI responses. It will, therefore, be unnecessary for Kansas City EOS's to prepare RFI's for some considerable period. When RFI's are prepared, they will be specifically designed for each individual case.

(5) Training

Following the February audit, the Regional Attorney conducted training in investigative techniques, with an emphasis on "burdens of proof." Further formal training of EOS's may be conducted in the future, if it should appear necessary. However, the changes discussed above will allow supervisors time to work more closely with their EOS's and to provide them with direct, on-the-job guidance and training. I believe OJT to be the best type of training available, if it is handled appropriately. Unit meetings by supervisors will include discussion of completed cases with participation by staff.

As stated above, training in interviewing will be provided to the Intake EOS's by the Regional Attorney. This training will also be given to the RCP and ECP EOS's

In addition to the above, John Nicholson will conduct a briefing of supervisors to re-emphasize the need to secure comparative evidence, and in the proper application of burdens of proof. These are areas identified as problems in your audit report.

As a further training tool, John will conduct monthly training sessions with Kansas City EOS's in which he will discuss one or two cases which he identified through his review of closures as either representing a good investigation, or having problems.

(6) Management Oversight

To ensure that the cases processed in Kansas City meet required quality standards, I have instructed Joe to forward all closures to St. Louis for review by his supervisor, John Nicholson, until further notice. I hope to be able to discontinue this practice within 3 months.

[redacted]

He will also send copies of the charges, along with a code, as outlined in Item No.II A.1 above. I may discontinue this practice after some period.

In addition, I require a monthly report from all managers concerning all areas of their management responsibility.

In summary, I believe that I have taken all appropriate actions within my authority. I will continue to monitor the production and management practices in the office to ensure the following:

1. Production at least at the Highly Effective level.

2. Development and implementation of innovative management systems designed to increase production to or above the outstanding level while enhancing quality.

3. Case processing which meets Agency quality standards.

4. Identification and processing of an adequate number of "litigation-worthy" cases.

5. Case management systems which promote the above results.

6. Personnel development and personnel accountability practices and systems which promote the above results.

7. Management accountability systems which accurately monitor results.

I know you will agree that the workload problem in Kansas City is acute, and I hope that after considering the above statistics related to staffing, you will agree that immediate action must be taken to secure additional staff, and transfer some of the workload.

Certainly, I am open to any recommendations you may have which would resolve the backlog or other problems in Kansas City. The options which are outlined above represent all that I perceive as being available to [redacted]. However, you may well have additional solutions. [redacted] your assistance.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

October 24, 1986

MEMORANDUM

To : Walter Grabon, Director
Memphis District Office

From : Joseph S. [redacted] Director
Region II Programs
Office of Program Operations

Subject: Field Trip Report on the [redacted] District

During the week of September 22, 1986, a follow up review of the Memphis District was conducted for the limited purpose of reexamining files which were initially found to have insufficient evidence to support the finding. In reviewing each file, the initial field trip report findings and the concerns expressed in your July 30, 1986, memorandum were considered. A few new closure actions were also reviewed.

Overall we found that the initial findings (i.e. that there was insufficient evidence to support the closure action) were correct in 10 of the 11 files previously found to be deficient. Further, in our review of new closure actions, 3 cases evidencing the same types of problems discussed in this and other FY-86 reports were noted. Even excluding these additional reviews, the District has failed to meet the quality review standard. Of 103 charge files reviewed in FY-86, 86 or 83.5 percent were found to have sufficient evidence to support the finding.

Our specific findings are as follows.

1. 043-86-0303

Because the file in this case was destroyed, we were unable to reexamine and, therefore, reconsider our findings.

2. 043-86-0112

In this case the charging party alleged that respondent discharged her in retaliation for refusing to sign a false statement relating to another Title VII case. Respondent denied the allegations and maintains that the charging party was terminated for poor performance. The charge was dismissed for no probable cause. The initial field trip report notes that the file lacks a description of respondent's disciplinary policy, copies of charging party's personnel records, and with the exception of a "list" of terminations, comparative data. The District's reply indicates at length that the investigation must examine the conduct of respondent with respect to the charging party prior to and subsequent to his engaging in the protected activity. We agree that the reasons offered by respondent for its actions must be tested. However, such an examination can not be made in a vacuum. We first need to know the broad framework established by respondent which governs situations of this nature and related activities. In the instant case this means obtaining copies of records which describe respondent's disciplinary policy and procedures, and identify the types of records maintained by respondent for disciplinary purposes. The next thing which must be obtained is evidence relating to the charging party. In a case involving an alleged performance based disciplinary action, this usually involves obtaining copies of charging party's personnel records (i.e. evaluations, disciplinary records, etc.). With the above information, the following questions should be examined in the instant case:

a. does the evidence indicate that the charging party's performance was poor, as alleged by respondent;

b. did respondent's conduct towards the charging party change after she engaged in the alleged protected activity; and

c. was respondent's disciplinary action applied to the charging party in accordance with its disciplinary policy.

The third major area to be examined is that of comparatives. How has respondent treated others (i.e. in this case, persons with performance problems) under similar circumstances? To answer this question an examination of the same types of records as those relating to the charging party must be made in order to determine:

a. whether the individuals being compared are, in fact, similarly situated; and

b. whether there are similarly situated persons who received more favorable treatment.

Obtaining a list of persons "alleged" to have been treated the same way under "alleged" similar circumstances, fails to provide an effective test of respondent's explanation of its actions. This practice permits respondent to be selective, gives respondent the responsibility of determining who is similarly situated, and ignores any inquiry into whether there are similarly situated persons who received more favorable treatment.

It is for these reasons that the case was judged to have insufficient evidence to support the finding. Unfortunately the deficiencies noted above are not unique to this case. The problems of failing to secure copies of respondent records, relying on respondent created lists, and failing to examine whether there are similarly situated persons who received more favorable treatment, appear to be common.

3. 043-85-0951

Charging party alleged that he was discharged due to his race, Black. Respondent denied the allegations and contends that the charging party was terminated for insubordination. The field trip report indicates that much of the requested data was not submitted, there was no follow up on the RFI, and the evidence of record does not support the finding (i.e. a no probable cause finding was issued). The Memphis response contends, in part, that the information not obtained in item 6 (i.e. copies of all disciplinary records for a specified period) is "...redundant in view of the fact that the information requested in item 3 (i.e a list of terminations for a specified period) is on point...". We must disagree. As noted earlier, a list of terminations is not the same as copies of all disciplinary records, since the former is unreliable and fails to address the issue of whether there are similarly situated persons who received more favorable treatment.

Further, we note that respondent's list provides precious little comparative information. It indicates that of 116 terminations occurring over a twenty three month period, the charging party is the only person listed as a "dismissal". All others are shown as having quit or retired. Accordingly, we do not concur with the contention that "...considerable effort was made to locate comparative information.".

4. 043-85-1303

In this case, the charging party alleged that she was discharged due to her age, 56. Respondent maintains that charging party was terminated for falsifying records (i.e. she reported that she had tested urine samples, when in fact she had not done so). In our initial review of this case, we observed that witness statements were not obtained, that personnel records of similarly situated persons were not reviewed, and the evidence on which the no probable cause closure is based, mainly consists of respondent's position statement. In its response, the Memphis Office maintains that it was not believed to be appropriate to attempt to interview patients; respondent's disciplinary policy

provides that an employee will be dismissed after the first offense of falsification of records; and the evidence shows that respondent discharged a 23 year old for falsification of records. This reply does not address why the nurses, who respondent alleges discovered charging party's falsification of records, were not interviewed. Considering that the charging party maintains that she did not falsify the test records, the Office might have resolved the dispute by conducting these interviews. Further, respondent alleges that it discharged two other employees for falsifying records. However, an examination of the file fails to provide any information relating to the disciplinary histories of these employees. Therefore, we do not know what records they were accused of falsifying, nor do we know whether they were terminated after their first offense.

With respect to whether there are persons who received more favorable treatment under similar circumstances, the issue was never addressed.

5. 043-85-0325

In this case the District Office found that there is reasonable cause to believe that the charging party was discharged because of her age, 58. Respondent maintains that charging party was laid-off as a result of the computerization of respondent's accounting systems.

The evidence in this case is simply not convincing that age was a factor in charging party's lay-off. This is do in large part to evidentiary gaps in the investigation. The record of evidence does not contain a description of the duties performed by the employees affected by the reorganization. Nor does the record make clear the organizational relationship of the unit involved (i.e. in which charging party worked) to the overall operation. The file refers to other shifts where similar duties are performed, but it does not identify the affected universe (i.e the organizational components involved in the reorganization, the number of accounting units, the number and types of positions, or the age of personnel working in those units).

6. 015-85-1402

The charging party alleged that he was discharged because of his race, Black. It is respondent's position that the charging party was terminated because his plumbing skills are unsatisfactory and his attitude "was very bad". The field trip report indicates that the no probable cause finding is based solely on respondent's uncorroborated statements. The Office's reply discusses charging party's allegation concerning racial slurs, but does not address the problems associated with the investigation of the central issue in the case, discharge. A description of respondent's disciplinary policy and procedures was not obtained. Nor was any comparative evidence examined.

7.015-85-0900

In this case the charging party alleged that she was discharged while on maternity leave. Respondent maintains that charging party, a nonexempt salaried employee, was terminated because her position was eliminated and her former duties were spread out among current employees. The field trip report notes that the no cause determination was based largely on respondent's statements without supporting documentation. The District Office avers that charging party agreed with respondent that the position of another employee was eliminated; that the charging party was not replaced by another employee; and that three former female employees had gone on maternity leave and were allowed to return to their former positions. The information referred to is found in respondent's position statement and what appears to be the EOS's recording of a PDI with the charging party dated October 21,1985. Interestingly enough the records on this case indicate that the no cause determination is dated October 8, 1985. Therefore, the observation made in the field trip report is correct. At a minimum the investigation of this case should have involved the examination of the work history and leave records of all nonexempt salaried employees. According to respondent's

position statement, this would have meant examining the records of nine employees. As it turned out, no records were examined and the Office believes it to be significant that respondent eliminated a nurse's position four months prior to eliminating charging party's position as a purchasing clerk. Further, the probative value in knowing that two (not three as indicated in the Office's response) of respondent's former employees were permitted to return from maternity leave, is severely limited. We know nothing about their employment history, what job classifications they held, whether they were subject to the provisions of a collective bargaining agreement, or whether the treatment they allegedly received is representative.

8. 085-85-0493

The charging party, a Black female, alleged that she was terminated because of her race and sex. Respondent maintains that the charging party was terminated because she failed to properly manage the Title XX program contract. The field trip report implies that the charge should not have been dismissed for failure to cooperate, because the file contained conflicting information which was never resolved. The District Office indicates that is was not necessary to resolve the "reputed" conflicting information, because the charging party failed to cooperate. To the extent we find that there was no overriding concern which would warrant continuing the investigation in light of charging party's failure to cooperate, we agree with the District Office.

9. 085-85-0633

The charging party, a Black female, alleged she was discharged because of her sex. Respondent contends that the Charging Party was terminated for failing to cooperate with an investigation of cash shortages. In our initial report we noted that the store manager was asked to submit a sworn statement regarding a statement attributed to her (i.e., that she wanted one black and one white on each shift) and that statements were not obtained from charging party's witnesses. In its response, the Office contends that charging party failed to provide the address or telephone number of her witness, Michelle Johnson and acknowledged she was terminated for failing to cooperate with the investigation. It is unclear what information the Office wishes to convey in the statement "... Charging Party acknowledges...that she was terminated for refusal to cooperate with the second investigation.". If it is intended that we infer an admission by the charging party that her race was not a factor in her termination and that the basis for her termination was insubordination, we find that no such admission was noted. At the foundation of charging party's allegation that race was a factor in her termination is the cited statement attributed to the store manager, which we can not summarily dismiss because we know that, like charging party, a Black employee on another shift was also replaced by a white within a week of charging party's termination. However, neither this issue nor respondent's alleged reason for terminating the charging party was adequately investigated. No witnesses were interviewed, information relating to the racial composition of employees on the various shifts was not obtained, and no data was sought or obtained to determine whether there are persons who received more favorable treatment under similar circumstances.

10. 085-85-0446

In the instant case, the charging party, a nurse, alleged she was terminated due to her pregnant condition. The file reflects that respondent maintained a policy of not permitting its pregnant employees to work past their fifth month of pregnancy. The field report contains the criticism that the remedy obtained in the settlement is inadequate. The District Office takes the position that the settlement obtained is reasonable, because the charging party's physician had restricted her from doing any heavy lifting and charging party had to do "routine" lifting and turning. Accordingly, the case ceased to be a possible cause case.

Without addressing whether "heavy lifting" is synonymous with "routine lifting", we wish to point out that respondent's stated policy of not permitting employees to work past their fifth month is discriminatory and probably has been applied to other respondent personnel. However, we found no evidence that an effort was made to identify any other persons who might have been adversely affected. Absent a showing that the policy was applied to no one else, we must conclude that the remedy obtained did not approximate full relief and, therefore, is inadequate.

11. 085-85-0697

The charging party, a Black male, alleged he was discharged because of his race. Respondent maintains the charging party was terminated for failing to report to work for two days without notifying the company. Our field trip report notes that respondent's statement indicates others were discharged for the same reason, however, respondent's position was not corroborated by any hard evidence. The District Office argues that hard evidence would not alter the outcome in the instant case. In support of this position the Office provides the opinion of an Intake EOS, indicates that two respondent supervisors corroborated respondent's position, and informs us that the charging party could not be contacted from November 5, to December 24, 1985. Although we find this information to be very interesting, it does not address the problems in this case. As in most of the problem cases reviewed, there was no review of respondent records to determine whether there are others who received more favorable treatment under similar circumstances and whether the offered comparatives were in fact similarly situated.

As indicated in the beginning of this report, we informed you that substantive problems were found in three other closure actions, which were not a part of any previous field reviews. Because the deficiencies noted in these cases are the same as those discussed throughout this report and the specifics were communicated to you in our close-out interview, we will not be reviewing each of these cases (i.e., 085-86-0374, 085-86-0230, 043-85-1323) in this report. However, we do wish to mention one new disturbing item noticed in file number 085-86-0230. In this case we noticed, for the first time, the use of a form, fill-in-the-blank, discharge questionnaire which requests that respondent create lists, instead of soliciting copies of the required records. We find this item to be particularly problematic because it is designed to produce the same type of incomplete, superficial investigations which are the subject of this report. Therefore, we recommend you discontinue its use immediately.

Please prepare for my review, a memorandum outlining a detailed plan of action for improving the quality of investigations in the Memphis District and which addresses the deficiencies cited in this report. Your memorandum is due in my Office no later than November 31, 1986.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

DEC 19 1986

MEMORANDUM

Don Muse

To: ~~Addressees~~ Below

From: James H. Troy, Director
Office of Program Operations

Subj: CDS Report

Attached is the paper resulting from your recommendations on the future direction in the development of the Charge Data System. We have expanded on your ideas and added details and clarifications where we felt they were needed. We have also done a background paper with documentation outlining how we got where we are today.

Please review the material carefully. If you have any revisions, additions, deletions or corrections, please have them to me by January 9, 1987.

Addressees: Dorothy Mead, Director
Baltimore District Office

Harold Ferguson, Director
Cleveland District Office

Thomas Hadfield, Acting DIrector
Philadelphia District Office

Hermilo Gloria, Director
Phoenix District Office

OPO REPORT ON THE PROGRESS OF THE CHARGE DATA SYSTEM

INTRODUCTION

One of the most serious problems facing EEOC, and recognized by Chairman Thomas in May 1982, was the inadequacy of the Commission's automated management information system. The Commission had relied on the Complaint Statistical Reporting System (CSRS) for its charge processing data since 1977. This system proved increasingly unsatisfactory to both field management in their day to day office operations and to Headquarters management for performance analysis, trend identifcation, and projecting future needs. Field personnel spent an inordinate amount of time and resources entering data into the system, but could not fully access the data entered. In short, they could not generate reports nor manipulate their data in order to manage their workloads. Further, because of programming problems there were many coding errors in the system that caused the quarterly data generated by headquarters to be of questionable value. Reports were sent to the field at the end of each quarter but they were received weeks after the quarter ended and were only available in headquarters specified format. Therefore, data was somewhat outdated when it arrived in the field and was not in a format needed for local management analyses.

The result of this system was obvious. While field personnel spent much time entering data into the computer, field offices had to maintain a manually developed dual data system in order to have data that was useful for management planning, workload distribution and local performance evaluation. In addition, each District Office spent an exorbitant amount of time and energy reconciling, each quarter, the erroneous printouts sent by headquarters with the manually developed statistics Therefore, the need for an automated system that could provide accurate and timely data was clear.

As the first step in developing a new system, the Directors of the Offices of Management and Program Operations and assigned a user's work group the task of making recommendations to "redesign and reshape CSRS to reflect the current needs of the system's users and EEOC management." 1
The group, designated the CSRS Redesign Work Group (Users Group) was convened in November 1984 with Donald Muse, Director, Seattle District Office, as group chairman. The group's ultimate objective was to develop the final user specifications for a new system. After reviewing the current program data collection, identifying and interviewing all the users of CSRS information, determining user needs, and obtaining recommendations of the appropriate offices.2

The recommendations of the CSRS Redesign Group, published in the Functional Requirements Document, were based on information gathered from interviews with directors of all Headquarters and field offices. When the recommendations were completed, the group was disestablished and redesign of the new system became the distinct responsibility of the Computer Systems Management Division in the Office of Management (later Information System Services (ISS)).

BACKGROUND

The original goals of the new system, identified by the User's Group as necessary components of the new system were:

1. easier data entry with fewer charge related codes,
2. local District inquiry and report capability,
3. direct field access to the national data base,
4. case tracking capability in field and Headquarters offices,
5. a system of records disposition, and
6. new hardware and software to support the system design.3

To accomplish these objectives, the Functional Requirements Document pointed out the necessity of local district access to and control over data entered by the District, easier English language data entry, and local generation of reports formerly completed from manually developed data or produced by headquarters.4
After the design responsibility was transferred from the User's Group to the ISS, the original design proposed by the group was altered to some degree for clearly legitimate reasons. The most important reason was the cost of the implementing the original design. The other major factor was the disappointing performance by the contractor who was given primary system design responsibility.

Because there were timeframes for each step of the development of the system, staff from ISS had to take over functions the contractor had been expected to perform. This, of course, put an even greater burden on staff who were already devoting a substantial amount of time and effort to the development of the new system and who had to continue to carry out other responsibilities as well. This bifurcation of responsibilities led to further deviations from the original design, with unrelated staff developing components of the same system.

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1 John Seal memorandum to Donald Muse, October 31, 1984 (Tab A)

2 John Seal and James Troy memorandum to Donald Muse, November 7, 1984 (Tab B)

3 Functional Requirements Document of the CSRS Redesign Group - Overview (Tab C)

4 Functional Requirements Document - Summary of Improvements (Tab D)

DISCUSSION

No matter how justified the reasons for the changes made to the original design, however, the results were that when the system was introduced to the field in (early 1986), the field office directors were not satisfied with what they were given. Even taking into consideration the problems associated with starting up any new computerized system, especially one as sophisticated as the Charge Data System (CDS), it quickly became evident that the new system did not meet the requirements that the directors had been led to believe they would be receiving.

Many of the requirements identified by the User's as being the most critical had been dropped. These requirements included the ability of a district office to access the data of its subsidiary offices, the ability to generate reports from the local data base, the ability to delete files, and the ability to transfer charge data from one data base to another. Hundreds of charges are transferred from one office jurisdiction to another every day. This includes not only within EEOC, from local and area to district and back, from district to district, but of even more consequence, from district to FEP and back. The inability of an office to enter data on a charge that had been transferred from another office meant that offices had to either keep up their charge processing records manually or use a second internally developed automated system.

Field office directors wrote numerous memoranda pointing out the deficiencies of the new system. Specifically, directors pointed out that, contrary to the User's Group's recommendation that English language entries replace the use of codes, the new system contained 129 codes. The increase of 58% over the 84 English language entries recommended was the result of additional points of count identified by the Office of General Counsel. Regardless of the reasons, the additional codes served to complicate and impede the system. District offices were no given the capability of compiling the reports necessary to office and Headquarters management. Particularly significant is the inability to automatically prepare the quarterly management information report, the "396's". Finally, the cost of accessing the National Data Base ultimately was prohibitive for use even by Headquarters offices. Since the Collection Manager - necessary for transmitting data to the National Data Base - was not functional, even if the data could be accessed at a reasonable cost, the data is not up to date.5

DIRECTORS WORK GROUP

Staff of the ISS have been working to correct problems as they are identified, but they are faced with resource problems, both staff and budgetary. To help set priorities for developing the CDS, the Director of the Office of Program Operations called the directors of the districts that piloted the CDS to a meeting in Headquarters. Four of the directors attended the meeting, held August 17 and 18, 1986. The four directors were Dorothy Mead, Baltimore District Office, Tom Hadfield, Philadelphia District Office, Harold Ferguson, Cleveland District Office and Hermilo Gloria, Phoenix District Office.

The mandate given the work group was to identify the field's most critical development requirements for CDS. The directors met for two full days discussing their experiences with CDS, the problems they had encountered in using it and setting priorities on most needed improvements. Early in the meeting Leo Sanchez from the ISS staff briefed the directors on what ISS had already scheduled in the way of improvements in the near future. After lengthy discussion, the directors agreed to include the ISS schedule in their recommendations as it was presented. That schedule is included in Category I as top priority.

The four directors represented a cross section of CDS experiences One director who had developed his own automated system was strongly resistant to even trying CDS. The Baltimore director who, largely because of her office's proximity to Washington, had been working very closely with ISS and had piloted many of the improvements. Because of this, the Baltimore Office had been among the first to begin using the system fully and remained optimistic that the problems that had been encountered would be resolved quickly and the system would provide the capabilities necessary to be an effective management tool.

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5 Memoranda from District Directors - Tab E

In their discussions, the group also considered the comments they received from other the directors. Some of the major problems identified included the inability to correct and delete entries, the inability to transfer charge data, the inability to produce necessary reports, the slowness of the system, lack of word processing capability which in turn means that forms cannot be generated, limited multi-user, multi-tasking capability, inability to access data in the national data base, lack of a collection manager to enable the field offices to transmit data to the national data base and an excessive number of codes.

RECOMMENDATIONS

The following outline represents the consensus of the staff that participated in the CDS planning meeting held at Headquarters on August 17/18, 1986. The outline is divided into three categories: category I is the absolute minimum level of support to make CDS minimally operational; category II is the additional support and modification required to make CDS meet field needs; category III is the additional support needed to continue the development of CDS into a fully operational system.

I. CDS Minimum Level - Develop both software (numbers 1 through 7) and other support (8 through 9b) necessary to make CDS meet the basic requirements of an information system that will provide the basic data needed by local and Headquarters management to make informed management decisions.

1. Data Entry Modifications - ISS to make the necessary program changes to facilitate the entry of data into CDS. This would be a continuing effort in FY 87.

1a. Supplies - OPO and OM ensure that FY 87 budgets contain sufficient funding to provide computer supplies for all field computer users.

2. Corrections Utilities - ISS to provide the necessary system changes to provide the field with the ability to correct data entry and records errors. The utility must be distributed to the field in October 1986.

3. Purge Utilities - ISS to provide the necessary system changes for deletion of records in the local data base.

4. Mini file Utilities - ISS to provide the necessary system changes for operation of area/local office and FEPA mini file data transfer to district office data bases.

5. Collection Manager - ISS to implement the collection manager system for creation of the National Data Base by November 1, 1986.

6. Reports - ISS to finalize the design of CDS reports for field and headquarters use that were part of the original design group recommendations. (No reports will be finalized without direct field input.)

7. 396 Reports - ISS to finalize the programming for the generation of 396 (MAP) reports from CDS.

8. Field ADP Staff - District Directors and OPO to define specific job requirements and functional classification data for field staff responsible for the operation of CDS and all other related ADP functions in the District/Area/Local offices. OPO and OM to initiate classification studies to meet field needs as defined.

   The System Administrator and the person with primary operational responsibility for CDS should not be in the bargaining unit.)

9. Training - Training to be provided to all field staff that operate CDS to meet a minimum level of proficiency and knowledge. Training provided by ISS, SDTD, and OJT should be completed by end of 2nd quarter, FY 87.

9a. Hacker's Meeting - the present informal network of the computer literate staff in various district offices should be formalized into regularly scheduled meetings for exchanges of information, suggestions for modification and improvement of CDS, and suggestions for training to be shared with the field, with OPO and ISS.

9b. Improved Communications - Communications between ISS and OPO need to be significantly improved during the development of CDS in FY 87. OPO needs to be notified of any impending design changes and modifications to CDS for evaluation of impact on field operations and resources.

II. Additional Support and Modification - This category represents an interim level between the present system and the system as it was originally designed. It provides enhanced communications between the district and its subsidiaries, but does not allow full access by the district of data from either its subsidiaries or the national data base.

10. District/Area/Local Communications - The Mini file system should be improved and modified as needed during FY 87 to facilitate communications between the District office and its satellites' local data bases.

11. FEPA Communications - The Mini file system should also be modified and improved as needed to facilitate data transfer between FEPAs and their EEOC offices. A study should be made to define what documents must be maintained as hard copy and what documents can be generated and transmitted electronically. Policy must be defined for dealing with FEPAs that do not buy into CDS/HERO.

12. Automatic Form Generation - A study should be initiated to define system needs and enhancements to CDS to provide the automatic form generation originally defined in the CDS Design Group report.

13. Hearings - CDS should be modified to maintain the Hearings data in a separate file under CDS rather than as part of the compliance charge file. Data entry screens add actions, and case tracking would be patterned after the present Charge Entry and Add Action files, but they would be another file independent with its own codes and fields directly related to the Hearings process. (Baltimore would include this in category I.)

III. Fully Operational CDS Support - The continuing commitment to development necessary to ensure that the system grows as needs arise and as improvements in computer capabilities become available. This category also achieves most of the goals defined by the CSRS Redesign Group in the Functional Requirement Document as the purpose for the CDS.

14. Outside Experts - EEOC should conduct a study of CDS utilizing outside experts (Federal or private) to help define the additional needs of CDS as innovations become available.

15. Additional Hardware - The field offices should be provided with additional terminals and other hardware as needed to facilitate the operation of CDS.

16. National Data Base - The national data base should be maintained in an in-house minicomputer for ease of operation and cost saving. (Baltimore wants this to be made a Commission priority.)

17. Communication - CDS should be enhanced to provide full communication between Headquarters and field office data bases and to enable district offices to access all data from their satellite offices data bases electronically.

18. System Evolution - OPO and ISS should fund initial studies of a second generation system for EEOC data base and information management.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

JAN 14 1987

MEMORANDUM

TO : James H. Troy, Director
Office of Program Operations

FROM : John D. Schmelzer, Director
Field Management Programs (East)

SUBJECT : Field Office Computers

Pursuant to your request for the Chairman and forwarded herewith is a complete listing of where computers have been assigned in each Office of Field Management Programs East.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

FEB 2 1987

MEMORANDUM

TO : District Office Directors

FROM : James H. Troy, Director
Office of Program Operations

SUBJECT : Microcomputer Technical Support

For some time now, Information Systems Services has felt the need to provide more in the way of technical support to microcomputer users in our field offices. This year's budget permits them to start delivering some of that technical assistance. The goal is to establish a stable office automation environment that fully supports your case processing, legal and administrative needs.

During the week of March 23, 1987, we will begin with training for Management Information Specialists here in Washington. (Attachment A is a tentative agenda for that conference.) We are firmly convinced of the value of such a position to an office's overall productivity and urge those of you who have not yet filled such a slot to do so quickly.

In April, the Information Technology Center (ITC) takes its show on the road. They plan to spend as much as a week in each district office training on our standard software packages and to assist with any particular hardware or application problems. While the ITC has a pretty good idea about the training and support needs, we intend these visits to address the particular needs and circumstances of each office. Toward that end, we ask that you review attachment B with members of your staff familiar with microcomputer usage in your office. Your response to these questions will help the ITC staff to begin planning training for your office. They will also go over these questionnaires in detail with your Management Information Specialist at our March training. Please complete the questionnaire and return it in the enclosed envelope by February 11 via DHL service.

We regret that our budget will not permit visits to area and local offices. We hope that your budget will allow at least some area office staff to attend some of the district office sessions. We are prepared to work with you to arrange training schedules to use their time most efficiently. Should you have any questions, contact the ITC staff at (FTS) 634-4611.

I. INTRODUCTION

A. Agenda

B. Role of MIS
1. System Maintenance
2. System Support
3. Training Other Personnel
4. Developing Software Applications

II. OVERVIEW OF IBM PC HARDWARE

A. System Components

B. System Installation

C. System Configurations

III. OVERVIEW OF SOFTWARE APPLICATIONS AND INSTALLATION PROCEDURES

A. DOS

B. LOTUS

C. R:BASE

D. WordPerfect

E. Communications
1. Carbon Copy
2. Smartcom

IV. OVERVIEW OF CHARGE DATA SYSTEM

A. IBM PC vs. NCR

B. Overview of Basic System Usage

C. Support/Help

V. OVERVIEW OF NCR HARDWARE

A. System Configurations
1. 3 Types

B. Capabilities/Limitations

VI. [illegible]

A. Diagnostics

VII. MANAGING SYSTEMS

A. Site License

B. Product Registration

C. Backup

D. Security

VIII. THE FUTURE

A. Where we are going

[illegible]

PC [illegible] SUPPORT SURVEY

The Information Technology Center (ITC) is seeking information to plan a program of training tailored to the particular needs of your office. Please answer the questions below and obtain the sample files described in item 3C. Return both items in the enclosed envelope via DHL by February 11, 1987. Thank you for your help.

Should you have any questions, please call the ITC at (FTS) 634-4611.

1. Management Information Specialist

Is there currently a Management Information Specialist on your staff? Yes_____ No_____

If so:

Name _____
Phone Number _____

Principal Responsibilities _____
_____
_____
_____
_____

If not:

Will this be the first position you attempt to fill with an open slot? Yes_____ No _____

When do you expect to have an MIS on board?

_____

[illegible]

[illegible] training requirements [illegible] highest priority. Leave blank those topics you believe are not of immediate importance for a particular group.

	Clerical	Professional	Administrative	Managerial
Intro to Automation				
Hardware				
Operating System, DOS				
Word Perfect				
Lotus				
R:Base				
Communications				
Other (specify)				

2b. Please use this space to elaborate on any other training or topics you wish the ITC staff to address:

[illegible]

	Clerical	Professional	Administrative	Managerial
Intro to Automation				
Hardware				
Operating System, DOS				
Word Perfect				
Lotus				
R:Base				
Communications				
Other (specify)				

	Clerical	Professional	Administrative	Managerial
Hardware				
Operating System, DOS				
Word Perfect				
Lotus				
R:Base				
Communications				
Other (specify)				

3b. Has your office developed any applications using WordPerfect, Lotus, R:Base, Smartcom or Carbon Copy?

Yes_____ No_____

If so, identify the software used, the staff member who developed the application, his or her phone nurber and describe briefly the application:

3c. We would like to get some overall assessment of how proficient your staff is in using WordPerfect. To do so we ask that you furnish a sample document from each WordPerfect user in your office.

Please copy the documents onto the enclosed formatted diskette. We'll call it the target diskette and the diskette from which you copy the document, the source diskette.

On a two-diskette drive PC, place the source diskette in drive A and the target disk in drive B. If the document is called FILENAME.EXT, issue the command:

COPY A:FILENAME.EXT B:

On an XT, place the source diskette in drive A and issue the same command. When prompted, replace the source diskette with the target diskette and strike any key.

If you wish, you may accompany the diskette with a list of the file names and the users who prepared it. The ITC staff will provide the user with a critique of his or her WordPerfect technique. This should be entirely voluntary on the part of the user.

Please label the diskette with your office name, place it back in the diskette protective mailer, and return it with this questionnaire in the enclosed envelope via DHL service.

4. Logistics

During which month or months would it be most convenient for the ITC to visit your office?

Would some special coordination be required to permit area or local office staff to attend?

Please identify a person in your office with whom we should coordinate our visit? Phone number?

Do you have a space that can be devoted for a week to our training?

Approximate size?

Number of electrical outlets?

Number of tables available?

Number of modular (RJ11C) phone lines, if any?

Can any of your office's PC be pressed into service during the training? How many machines and approximately how many hours each day?

5. Application Development Assistance

We would like to assist with specific PC applications if time permits. These might be something already developed that might benefit from some tweaking, something you are just beginning to develop, or perhaps just an idea for some area of office activity you think might benefit from automation. Please identify these here along with a contact person and a phone number.

March 24, 1987

MEMORANDUM

To: James H. Troy, Director
Office of Program Operations

From: Lynn Bruner
District Director

Subject: Upward Modification of FY87 Contract for
Kansas Commission on Civil Rights

Over the years, the Kansas Commission has proven to be one of the most viable and productive 706 organizations in the country. This year, under the direction of Joanne Hurst, they are exceeding their usual pace and will have completed their entire contract of 625 cases by the end of March.

I view this situation as an exciting opportunity for the St. Louis District, because Joanne Hurst has agreed that if she receives a substantial upward modification of her contract for this fiscal year, she will process cases from the inventory of our Kansas City EEOC Area Office.

As you know, the Kansas City Office has been dramatically understaffed for the last several years, and although a number of staff has recently been allocated to Kansas City, none has yet been brought on board, and it will likely be the end of the fiscal year before all hiring is completed. We presently have approximately 1600 cases which are backlogged, and the backlog is growing at the rate of 460 cases per year. I desperately need assistance in helping eliminate this backlog. Some discussion has taken place about transferring a number of cases to other EEOC offices, but the number discussed is far less than the 1600 presently requiring attention.

Ms. Hurst believes that her agency can complete an additional 400 cases from the Kansas City office if upward modification is approved rapidly. I am therefore requesting that special consideration be given to this situation, and that this request be handled on a priority basis, rather than waiting for the normal upward modification process to occur. As you know, time is of the essence in the processing of cases, and it is critical that approval be granted so that these cases can be received and completed before the end of the fiscal year.

I realize that there are numerous contingencies which have to be taken into account prior to approving a request of this nature. However, I do believe that this request should be given priority consideration because of the fact that more than one interest would be served if the contract is increased. Not only would the State benefit from the increase in the contract, but the St. Louis District Office would benefit as well, by being able to have 400 of its cases handled expeditiously. Perhaps most importantly, however, is the fact that 400 Charging Parties would be served far more promptly under this arrangement than would otherwise be possible.

I would appreciate it if you would make every effort possible to approve this upward modification. Please let me know if you need additional information.

March 26, 1987

MEMORANDUM

To: Jackie Shelton, Acting Director
Region II

From: Lynn Bruner
District Director

Subject: Transfer of Kansas City Area Office's Cases

It is my understanding that agreement was reached between Jim Troy and Joe Bennett that some portion of the pending inventory in the Kansas City Area Office could be transferred to other offices in what used to be Region II. I would like to call this matter to your attention, and ask that whatever steps are necessary be taken to allow me to transfer as many of these cases as possible to other District offices.

As described in my memo to Mr. Troy concerning the increase in the charge processing contract for the Kansas Commission (copy attached), there are presently 1600 cases backlogged in the Kansas City Area Office at this time. What I did not indicate, in my previous memo, was the situation with which we are faced in the Age jurisdiction. Because of the severe backlogging, we are running the statute of limitation on a large number of Age cases, and in some situations, simply will be unable to process them prior to the expiration of the statute of limitations.

We have made every effort to assign Age cases as quickly as possible to avoid this situation. However, I was reluctant to instruct the Kansas City Area Office to assign Age cases on a totally disproportionate basis.

To illustrate, we presently have a total of 148 Age cases on which we will have exceeded the statute of limitations before they can be assigned, given our present rate of assignment, unless I instruct the Kansas City Area Office to assign these cases out of sequence. This is roughly the equivalent of a 1 year workload for three EOS's under the new quality processing standards.[1]

I am bringing this matter to your attention for two reasons: First, to illustrate the urgency of our need to transfer cases immediately to other District offices; and second, to request guidance from you as to whether we should assign Age cases on a priority basis, in order to avoid running the statute of limitations.

I believe that if headquarters is able to approve the upward modification of the Kansas City contract, and we are able to transfer five or six hundred additional cases to other offices, we would be able to handle the Age statute problem on the remaining cases.

I would sincerely appreciate it if you could expedite a decision concerning the transfer of these charges. If transfer is not possible, I will need advice from you as to how to handle this Age statute problem.

---

[1] While I have not been advised of the processing assumptions being used for staffing under the new quality procedures outlined in my SCS Agreement, and the upcoming no cause charge appeal procedure, I believe that it is safe to project that we will not be able to produce cases at the required level of quality at a rate which would exceed 45 per EOS.

ATTACHMENT C

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

May 6, 1987

MEMORANDUM

TO : District Directors

FROM : Clarence Thomas
Chairman

James H. Troy, Director
Office of Program Operations

Charles A. Shanor
General Counsel

Pamela Talkin
Chief of Staff

SUBJECT: District Director Performance Standards

As you are aware, neither the present performance agreement for District Director nor the Rating Guide contains specific goals for Commission litigation in your office. The purpose of the removal of these goals, as you know, was to remove any perception that there was a cap or upper limit to the presentation of cause cases to the Commission.

Removal of these litigation production goals was not intended to signal a departure from the Commission policy that Title VII, the Equal Pay Act, and the Age Discrimination in Employment Act should be vigorously enforced through litigation. The time periods for administrative charge processing are not to be construed to place a premium on closure of cases to the detriment of quality investigations through vigorous compliance efforts.

The Commission will be particularly attentive to any downward trends in both quality and quantity of litigation recommendations. Unless specifically justified to the contrary, we believe it is a reasonable assumption that District Offices -- Compliance and Legal Units -- should at least produce the same number of litigation recommendations as were submitted during the past fiscal year. This assumption is realistic inasmuch as the Commission's litigation production was severely hampered last year due to a shortage of resources resulting in an extended hiring freeze and other measures to curtail expenditures. With this situation substantially alleviated this year, there exists no reason why charges cannot be expeditiously processed and, where conciliation fails, be presented to the Commission for litigation authorization in at least the same volume as previously occurred.

Where there exist unexplained differences between either the quality or quantity of Presentation Memoranda (including the LCD, LOV and IM) from that which occurred in the prior fiscal year, such deficits will be taken into account in the computation of your annual rating. Similarly, improvements in quantity and quality will be positively considered in your rating. In processing charges for possible prosecution, legal unit personnel stand ready to provide appropriate assistance to compliance personnel.

In conclusion, the Commission's litigation enforcement program has played an important role in demonstrating that the Commission will seek the assistance of the courts where voluntary efforts fail to achieve compliance. This has strengthened the Commission's voluntary compliance efforts by providing a clear signal to respondents that compulsory enforcement is a definite possibility upon a Commission finding of a violation. The current district director performance agreements, while deleting numerical references to specific litigation attainment goals, do not alter the purpose or aims of the Commission's emphasis on quality charge processing or litigation enforcement, where appropriate.

TOTAL P.02

X or Z

UNITED STATES GOVERNMENT
Memorandum

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
MEMPHIS DISTRICT OFFICE

Date: August ~~31~~ 17, 1987

TO All Supervisors

In reply refer to:

FROM Martha S. Jordan
Compliance Manager

SUBJECT: EPA Litigation and the Statute of Limitations

This is in reference to the Regional Attorney's memorandum, dated August 7, 1987, subject as above, addressed to All Attorneys, cc: Compliance Manager and Supervisors.

The attached is a list of EPA/ADEA charges which was run on August 14, 1987. Please review this list to determine its accuracy. Delete any charges which have been closed and discuss with me ASAP any open charges in your inventory in which the statute of limitations has expired or will expire by December 31, 1987.

Please note the date to be concerned with is the alleged violation date rather than the filing date.

Attachment

MSJ:jgl

NOTE: All other ADEA, EPA or concurrent ADEA / Title VII/ EPA charges should be prioritized and assigned by October 1, 1987, with completion dates scheduled well in advance of the expiration of the statute of limitations. Effective today, all such charges will be marked by the CH/TIU Unit on the bottom front of the file folder to show expiration dates as follows:

"21st month: _____
24th month: _____"

cc: M. J. Vlantis

EEOC 5

Buy U. S Savings Bonds Regularly on the Payroll Savings Plan

	80	81	82	83	FY 84	85	86	87
receipts — Appl / T-7/Appl	11,076	8101 1,378 9,479	9207 1,856 11,063	15,303 2784 18,087	12,078 3,022 15,100	13,601 3,183 16,784	13,854 3589 17,443	11,627 3 yrs 15,121
tolerants / conclusions	1,270	1,787	2,063	2515	2,019	1,643	1,697	1,460
NO Cause		1,592	2,836	6,935	8,205	8,167	8,779	8,103
misc. uncon. / Circ. letters		304	299	273	148	552	384	404
ADMIN. Closures		4,179	3,788	3,583	3759	4,075	4,082	4,563
T=TPL		6,488	7,864	8,986	13,306	14,437	14,933	14,530
Settlements	$12,312,000	30% Cause Settlement Rate	30% Cause Settlement	$35,382,000 31% Cause Settlement	8,380,000 16% Cause Settlement	21,400,000 15% Cause Settlement	18,050,000	15,712,000

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
OFFICE OF PROGRAM OPERATIONS
CHARGE PROCESSING STATISTICS
FY 1980 THROUGH FY 1987

	FY 1980	FY 1981	FY 1982	FY 1983	FY 1984	FY 1985	FY 1986	FY 1987
RECEIPTS								
Title VII	45,382	44,992	41,629	50,506	52,130	53,343	50,110	45,401
ADEA	11,076	8,101	9,207	15,303	12,078	13,601	13,854	11,627
EPA	2,870	673	513	656	416	625	146	206
Title VII/ADEA		1,378	1,856	2,784	3,022	3,183	3,589	3,494
Title VII/EPA		1,084	940	1,003	1,110	1,076	1,011	1,061
Other					118	174	112	285
TOTAL	59,328	56,228	54,145	70,252	68,874	72,002	68,822	62,074
CLOSURES								
Settlements and Conciliations								
Title VII	16,088	18,919	17,450	16,864	9,649	7,367	6,338	5,305
ADEA	1,270	1,787	2,063	2,515	2,019	1,643	1,697	1,460
EPA		513	530	498	317	304	210	313
Total	17,358	21,219	20,043	19,877	11,985	9,314	8,245	7,078
No Cause								
Title VII	14,013	18,384	19,374	21,948	16,264	26,065	27,329	20,871
ADEA		1,592	2,836	6,935	8,205	8,167	8,770	8,103
EPA		1,121	1,252	1,687	1,206	906	915	604
Total	14,013	21,097	23,462	30,570	25,675	35,138	37,014	29,578
Unsuccessful Conciliations								
Title VII	1,212	1,520	1,131	1,775	1,381	1,008	896	573
ADEA		306	299	273	148	552	384	404
EPA		173	202	114	74	61	88	59
Total	1,212	1,999	1,632	2,162	1,603	1,621	1,368	1,036
Administrative Closures								
Title VII	17,912	22,962	17,863	12,888	11,584	11,996	10,943	10,942
ADEA		4,179	3,788	3,583	3,757	4,075	4,082	4,563
EPA		234	265	349	430	350	551	285
Total	17,912	27,375	21,916	16,820	15,771	16,421	15,576	15,790
TOTAL								
Title VII	49,225	61,785	55,818	53,475	38,878	46,436	45,506	37,691
ADEA	6,488	7,864	8,986	13,306	14,129	14,437	14,933	14,530
EPA	1,614	2,041	2,249	2,648	2,027	1,621	1,764	1,261
Total	57,327	71,690	67,053	69,429	55,034	62,494	62,203	53,482
BENEFITS (000)								
Title VII	$43,082			$65,977	$98,025	$59,096	$34,349	$30,695
ADEA	$12,312			$35,382	$8,380	$21,401	$18,050	$15,712
EPA	$1,926			$3,138	$652	$1,741	$1,441	$2,023
Total	$57,320	$101,397	$101,194	$104,497	$107,057	$82,238	$53,840	$48,430

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

SEP 4 1987

MEMORANDUM

TO : James H. Troy, Director
Office of Program Operations

THRU : Michael Dougherty, Division Director MD
Determinations Review Program
Office of Program Operations

FROM : Andrew J. Sheppard, Branch Chief AJS
Determinations Review Program
Office of Program Operations

SUBJECT : Summary of Birmingham District Office Case File Audit

We have concluded our review of the closed case files from the Birmingham District Office as requested by the Acting Director of Field Management Programs (East). We were instructed to use the format and methodology established by Don Muse in earlier reviews.

There were 330 case files reviewed by the D.R.P staff. Based on the B.D.O case file inventory sheets, there were 332 case files listed, however our inventory of the files show that there were actually 330. (The missing charge numbers are 042850835 and 042851063.)

A breakdown by type of closure action shows that 216 (65%) files were no cause/no violations, 107 (32%) were administrative closures and 7 (3%) were cause findings.

Of the 216 no cause/no violation decisions, 174 (81%) were based on Title VII, 25 (11%) on the ADEA, 17 (7%) on Title VII and the ADEA and 1 (.5%) was based on the EPA.

Of the 107 administrative closures, 88 (82%) were based on (Title VII, 15 (14%) on the ADEA, 2 (3%) on Title VII and the ADEA and 1 (1%) was based on Title VII and the EPA. The administrative closures were closed as follows: negotiated settlements - 28; failure to co-operate - 9; filed private suit/Request NRTS - 19; no jurisdiction (T-7, Age or EPA) - 4; less than 15 employees- 3; withdrawal of charge - 33; section 7D conciliation failure (ADEA) - 6; untimely - 4; and failure to accept full remedy - 1.

There were also 7 cause cases not reviewed, pursuant to instructions from the Office of Program Operations.

We are providing as background to our analysis and for your convenience: 1) a summary of the results of the charge review analysis sheets identified by charge number, 2) the B.D.O. inventory sheets, and 3) our actual worksheets for each file. All items can be tracked by charge number.

The charge review forms were broken down into 12 areas in which the files were evaluated. A summary of the charges closed with a finding of no cause/no violation revealed the following:

(1) PROPER SCOPE OF THE INVESTIGATION DETERMINED AT THE BEGINNING OF THE INVESTIGATION.

Yes - 78% (169)
No - 22% (47)

(2) INVESTIGATIVE PLAN OUTLINES INVESTIGATIVE SCOPE AND STRATEGY.

Yes - 31% (67)
No - 28% (61)
No IP in case file - 41% (88)

(3) REQUEST FOR INFORMATION ADDRESSES ALL ISSUES THOROUGHLY.

Yes - 64% (139)
No - 34% (73)
No R.F.I. in case file - 2% (4)

The most common error was to exclude some of the issues raised by charging party.

(4) LOG IS A CLEAR PROCESSING RECORD.

Yes - 62% (133)
No - 38% (83)

The most common problem noted was a 6 to 8 month gap with no substantive log entries.

(5) NECESSARY WITNESSES CONTACTED.

Yes - 25% (53)
No - 40% (88)

In addition 35% (75) of the cases appeared not to need witness contacts for interviews. In those cases where witnesses were not contacted the investigation totally ignored charging parties' witnesses or lacked corroboration from witnesses identified by respondent.

(6) ON-SITE THOROUGHLY DOCUMENTED.

Only 2% (5) of the cases were investigated through an on-site investigation and the other 98% (211) were done through mail responses from respondent, and a few (less than 5) through fact finding conferences.

(7) IM ADDRESSES ALL ISSUES AND PROVIDES SOUND RATIONALE FOR CONCLUSIONS.

Yes - 50% (108)
No - 50% (108)

The most common omission was the failure to analyze or address all or part of the charging parties' allegations and respondents' responses to those allegations.

(8) EVIDENCE SUPPORTS FINDINGS.

Yes - 49% (106)
No - 51% (110)

The most common omission was that the closure recommendations were based on respondents' position statements with little or no comparative evidence and/or corroborative documentary evidence.

(9) FILE PROPERLY ORGANIZED.

Yes - 80% (174)
No - 20% (42)

(10) REQUIRED LEGAL INPUT DOCUMENTED.

None of the files contained evidence and/or notations that legal was consulted on any of the closures.

(11) REMEDY.

N/A on no cause/no violations.

(12) RESPONSE TO RFI COMPLETE.

Yes - 59% (127)
No - 41% (89)

A number of RFI's appeared to be canned RFI's and not specifically tailored to the basis and issues complained of in the charge.

An analysis of the administrative closures revealed that, for the most part, prescribed Commission guidelines and procedures for administratively closing cases were followed, with the following exceptions:

(1) Charge #042851384.

CP was employed by a temporary labor service which contracts out its employees to other companies. CP originally filed a charge against a contract company and the charge was dismissed based on lack of jurisdiction. Another charge was subsequently taken against the temporary labor service. There was no explanation in the file as to why this was done.

(2) Charge #042850729.

Charge was closed as untimely based strictly on respondent's letter which challenged the date of the alleged discrimination without further investigation by the District Office.

(3) Charge #042851592.

Respondent stated in a letter that they did not have 15 employees and this file was closed for that reason without documentary evidence from respondent.

(4) Charge #042851506.

Charge was dismissed because CP failed to accept full remedy. CP alleged that respondent gave her bad references to potential employers, which resulted in her not being hired. The file indicated that respondent only offered to stop the practice and to give neutral references. The neutral references were considered to be full remedy by the District Office without regard to the issue of potential backpay liability if it could have been shown that the CP lost employment opportunities as a result of the negative references.

(5) Charge #042851633.

Charge was closed as a failure to cooperate based on a 30 day letter having been sent to CP's home. A notation in the log from the E.O.S. stated that CP was in jail, but no attempt was made to contact him even though his whereabouts were known.

(6) Charge #042851464.

Withdrawal by C.P. with no explanation, or reason.

CHARLOTTE DISTRICT
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

CHARGE DATA SYSTEM (CDS) SPECIAL PROJECT

Project Report

(Status of CDS/HERO Implementation as of September 30, 1987)

I. GENERAL

Generally, the CDS/HERO system has been fully implemented to the extent possible within the District's sphere of control, problems have been timely identified and appropriate resolutions sought, and primary and back-up systems personnel have been identified and provided training and on-the-job operational experience.

Donna Seabolt, the District Management Information Specialist, is the overall system administrator and the EEOC/FEPA data interface coordinator. In addition, the Director is taking an active role in overseeing and encouraging full implementation of the system.

II. MAJOR ACTIVITIES/ACCOMPLISHMENTS IN FY 1987

Administrative Closure Report--A CDS Administrative Closure Report was developed in CTDO and was distributed to other District Offices at the Dallas Directors' meeting. Since then, it has been revised to reflect the changes in format for the 4th Quarter, Fy 1987, 396 Report. The Report is generated directly from CDS data, eliminating the need for manual calculations and generation. Traditionally, the Administrative Closure Report has been one of the most error prone of the 396 reports and was subject to manipulation to get it to "balance". Having it generated by the CDS ensures for the first time its accuracy (to the extent that the user's data entry is accurate and timely). [See Processing Program (Attachment A), Report Format (Attachment B) and CTDO's FY 1987 Report (Attachment C).]

Other Reports--Customized standard report formats were developed for all offices in the District for routine submission with the monthly reports. User Friendly Menu selection and generation of these customized reports has also been developed and will be fully implemented once all offices have compatible equipment. Examples of the reports:

- Closure Report by EOS, showing basic charge data, average processing time from receipt in the office, average time from assignment to EOS, average EOS processing time (to be tracked beginning October 1, 1988), benefits, total closures with subtotals by type of closure and the number of cases 300 days or older at closure. For each processing unit there is a summary of closures by statute and type of closure. [See CTDO September Closure Report (Attachment D).] These reports and other CDS generated data (e.g., summary of cause cases and number of charges taken during the period) along with manual supervisory records of quality and adherence to established timeframes, could provide a basis for reviewing EOS and Supervisory EOS case processing performance for appraisal purposes.

- Intake Report I which is sorted by EOS provides number of charges taken during the period by statute and the number taken by each EOS. [See report for June (Attachment E).]

- Intake Report II which is sorted by Charge Number and provides the total number of charges during the period broken down by statute. [See report for June (Attachment F).]

- Cause Report, a listing by unit of all cause decisions issued during the period, with EOS, office age of case at issuance, and average office age at issuance. [See report for FY 1987 (Attachment G).]

- Conciliation Report, a listing by unit of all closed cause decisions issued during the period, with result of conciliation efforts, EOS, office age of case at closure, average office age at closure and count of successful and unsuccessful conciliation efforts. [See report for FY 1987 (Attachment H).]

Intake Automation Pilot Project--The CTDO has worked with Information Systems Services in developing the CDS/Intake Automation Pilot Project which should be implemented in FY 1988. All Functions/Forms/Correspondence appropriate for automation and interface with the CDS have been identified.

Implementation of Legal Component of CDS--The CTDO has initiated the full implementation of the Legal Component of the CDS. In close coordination with the Regional Attorney, General Counsel, and Information Systems Services, CTDO will ensure that the Legal Component of CDS tracks all data currently tracked by the Legal Tracking System (LTS) and will develop and test appropriate CDS Legal Unit/Litigation reports, including the Legal 396 report.

Implementation of Hearings Component of CDS--Likewise, the CTDO has initiated the full implementation of the Hearings Component of the CDS. In cooperation with Public Sector Programs and Information Systems Services, CTDO will develop and test information gathering, recording, and reporting formats to meet identified Hearings Program information needs.

- o Pending at End-of-Period by EOS with average age of charges, number of 300 day cases [See CTDO report for September (Attachment I).]

- o 300 day report by Unit and EOS [See CTDO report for September (Attachment J).]

Computerization of 396 report--Using CDS generated data and a LOTUS based spreadsheet, the compilation and generation of the quarterly 396 reports has been automated, ensuring their internal consistency and accuracy. (See 3rd and 4th quarter Charlotte Office 396 reports.)

Based upon the development and testing of this LOTUS based system in the Charlotte Office, once the format for FY 1988 396 reports has been established, a spreadsheet for capturing and reporting FY 1988 CDS data will be developed and implemented in the Charlotte District, Area, and Local Offices.

The Charlotte Office has agreed to test and pilot the use of CDS generated 396 reports (for the Intake and Enforcement functions) using formats developed at Headquarters. Until these reports have been successfully tested and any problems resolved, the office will retain and maintain the LOTUS based system described above.

III. CURRENT STATUS BY OFFICE OF CDS IMPLEMENTATION

CHARLOTTE DISTRICT OFFICE

The Charlotte office discontinued use of its RBase based case tracking system at the end of December 1986. Its 1st quarter 396 reports were generated using CDS data and were supported by CDS print-outs of charge receipts, closures, and pending inventory. No major problems in data entry, data verification, report development and generation. Three employees, the Management Information Specialist, the Data Entry Clerk, and the Control Clerk have been trained in operation of the system. Problems in the system are routinely discussed with Information Systems Services (ISS) staff as they are discovered and corrective action taken as soon as feasible.

RALEIGH AREA OFFICE

The RBase local back-up system was discontinued in the 4th quarter and all appropriate historical data entered in CDS. All data is entered in the CDS system on a timely basis and data entry is current. Data Entry Clerk is trained and knowledgeable. However, she has resigned effective September 30, 1987. Other clerical staff are trained to enter data and generate standard reports on a back-up basis. Professional staff has been familiarized in the system's overall operation.

The office is still experiencing some difficulty in tracking transfers to and from the office, e.g., charges transferred to Charlotte and back to Raleigh not being picked back up in the Raleigh data base; unable, when necessary, to re-access charges transferred to the North Carolina Office of Administrative Hearings (see below for further discussion) and the New Hanover Commission or, conversely, such charges still showing up in the Raleigh active charge data base after transfer. Such problems

will be easier to correct once equipment compatible to that in the Charlotte Office is installed in the Raleigh Office. Then software applications developed in the District Office can be transferred and implemented in the Area and Local Offices.

GREENSBORO LOCAL OFFICE

Data entry is current. System produces reports on which 396 is based. Clerical staff trained and knowledgeable in system.

GREENVILLE LOCAL OFFICE

Data entry is current. System produces reports on which 396 is based. EOA and clerical staff trained and knowledgeable in system.

IV. CURRENT STATUS BY AGENCY OF HERO SYSTEM IMPLEMENTATION

NEW HANOVER HUMAN RELATIONS COMMISSION

The HERO system is fully implemented and operational. Data entry is current. Staff including the Director fully familiar with and trained in system. Reports are timely and accurate. The New Hanover Commission uses the filePro software for tracking its non-FEPA workload as well as its FEPA workload. It also uses its NCR equipment for word processing (using Q-One software distributed by Essex Office Systems) and file storage as well as for case tracking. We have worked out an arrangement for it to upgrade its hardware (additional hard disk storage capacity and increased Random Access Memory) beyond that which Headquarters was going to provide with the difference in cost being paid by New Hanover. The New Hanover Commission is anxiously awaiting the arrival of its new disk drive and the new version of the HERO package (the delivery of which is behind schedule).

SOUTH CAROLINA HUMAN AFFAIRS COMMISSION

Appropriate staff has been trained. Manager/Coordinator has been designated. Data entry is not current. Few reports are generated and used for workload management. Manual systems maintained. The Director, CTDO; the MIS, CTDO; and Richard Kashurba, Director, Information Systems Services, visited SHAC in May to review SHAC implementation of the HERO System and to identify problems and assist in resolution.

A recent problem has developed in data extraction and transmission to EEOC Headquarters. Because of this, there has been no regular transmission in the last several weeks. Presumably the problem will be resolved once the revised HERO software package is distributed to 706 agencies.

SHAC personnel have been brought to Charlotte on two occasions for additional training and demonstrations of the system's capabilities. Herbert Lanford, SHAC System Coordinator, at our invitation, came to Charlotte September 23, 1987, for briefing and was given various tailored report formats for use on the SHAC system. Following this most recent demonstration of the CTDO system's enhanced capacity for caseload tracking and management, SHAC has made a commitment to get its data current and once this has been accomplished--probably in early November--CTDO has committed the services of the MIS to meet with and work with the SHAC staff in developing and testing customized reports to meet SHAC's specific reporting and workload management needs. Principal problem remaining is the lack of a dedicated clerical employee for data entry.

NORTH CAROLINA OFFICE OF ADMINISTRATIVE HEARINGS (OAH)

As a non-contract 706 agency, OAH is not part of the HERO system. This creates problems in coding because when a charge is deferred (or transferred) from one of the North Carolina EEOC offices for processing by OAH, there is no one at the other end to receive it in the CDS/HERO system. Further, the receiving EEOC office has to enter all action codes once the case has been closed by OAH and returned to EEOC. The OAH is willing and eager to hook into the CDS/HERO system. Purchase on its own of equipment compatible with that used by CDS/HERO is a possibility with EEOC providing software and support. However if its pending request for contract status is approved, OAH and CTDO staff are prepared to quickly implement the HERO system in OAH.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

DEC 3 1987

MEMORANDUM

To: District Directors

From: James H. Troy, Director
Office of Program Operations

Subj: District Directors' Memo 2 - 88

Budget

Office allocations for expenditures under the second continuing resolution in effect until December 16, have been sent out. [illegible] monitored to ensure that they are within the guidelines, that is, the must be at the same rate and for the same purposes as expenditures for the same period last year. Even if agreement on budget cuts are reached by the committee, we will not know how it will affect EEOC until later negotiations on specific agency budgets are effected.

State and Local Conference

This year's State and Local Conference will be jointly sponsored by EEOC and HUD. The conference has been tentatively set for the week of March 14, 1988, at the Lincoln Hotel in Dallas, Texas. The Lincoln received rave reviews when the Field Investigators' Training was held there in June. We plan to have a District Directors' meeting sometime during the week. Please keep your schedules free for that week.

Limited Scope Commissioners Charges

We discussed the revisions in the procedures to be followed in processing Limited Scope Commissioners Charges (LSCC) during our last conference call. Now that SIICP has responsibility for review and movement of these charges, assigned investigators should be available to discuss them at the quarterly Systemic telephone conference.

This program was revised at your suggestion to make it easier and faster for you to get a charge approved. There has been little activity in the program as evidenced by the very small number of offices having active LSCCs. We encourage all of you to utilize this program as a valuable adjunct of your pattern and practice systemic program.

LSCC/Age Allegations

SIICP encourages districts to pursue ADEA allegations as part of your systemic/pattern or practice program

As you will note by the attached examples, you have choices as to the manner in which ADEA issues can be pursued in the context of a Title VII Commissioner's charge. One approach has been to include an ADEA allegation as part of the charge itself. Another alternative has been to initiate, at the same time as the Title VII Commissioner's charge, an age directed investigation which will be conducted jointly with the Title VII case. The latter approach preserves for the District Office the flexibility associated with the use of an age directed investigation.

Where preliminary targeting of a potential respondent suggests possible Title VII and ADEA violations, aside from identifying the evidence in support of the allegations, please indicate the method in which you plan to proceed.

Determinations Review Program

There still seems to be some confusion about the effect of the recent revision to 29 C.F.R. Section 1601.19 regarding field directors' authority under Section 1601.21 to reconsider a Letter of Determination (LOD). An LOD issued by a field office will become final on the 15th day after the date on the LOD if the charging party has not filed a timely request for review. However, the reconsideration procedures in 1601.21 only apply to final LODs. Therefore, a director cannot rescind an LOD during the 14 day review "window" or after a request for review has been received in DRP.

Directors may review LODs during the 14 day period or after a request for review is received. The field office can "reevaluate" an LOD during the 10 day period after it receives notice of the request or during the 14 day request for review "window". However, rather than rescinding the LOD, all no cause issues must be reversed by the end of the 10 day period. In such a case, the original LOD need not be rescinded because it never became final since a request for review was received. If, after receiving a request for review, a director decides that a no cause LOD may not be correct, but the review will take more than 10 days, contact DRP immediately.

This approach provides the field with some flexibility while ensuring a measure of finality for the determination process. While directors are able to reevaluate an LOD, the LOD may not be withdrawn before it becomes final. (For example, this could lead to reinvestigation over an extended period of time and then perhaps issuing another no cause LOD.) The 10 day reevaluation period provides some flexibility while ensuring timely closure.

Attachment A lists some of the problems still commonly occurring in files reviewed by DRP.

Goals and Timetables

Please review the attached memo (Attachment B) from the General Counsel to Regional Attorneys regarding goals and timetables in predetermination settlements and conciliation agreements. The memo is not a policy statement of the Commission and should be read in the context of litigation.

Note that predetermination settlements and conciliation agreements may include goals without "expert" (either outside or in house) clearance. Experts may be consulted during or after the Presentation Memorandum stage. OGC will not refuse to enforce predetermination settlements that contain goals and timetables if experts have [illegible]

Management Information Specialist

Those of you who have not yet filled your MIS position should do so immediately. We continue to see that the offices doing well with CDS are those with MIS positions being encumbered. As our automated systems grow and become more sophisticated, the need for an MIS becomes more imperative.

CDS Conference

A status update on implementation of the Charge Data System was presented at the CDS Conference held the first week of November in Virginia Beach. An update for the Local Data Base is scheduled to go to FEPs this month. It will then be prepared and sent to EEOC offices using the NCR equipment and finally to EEOC offices using IBM-XTs. The primary reason for the update is to resolve problems in the transfer of charges between EEOC offices and between EEOC and FEPs. ISS staff said that all of the problems have been identified and addressed and the update will be in all offices before the end of the calendar year. Codes for the field reorganization (e.g., Enforcement Teams) and for the Determination Review Program will also be included in the update. You are to start using the update as soon as it is received in your office.

ISS priorities for future development of the Charge Data System are:

1. Efficient access to the National Data Base
2. Reliable communications network - ISS is working with contractors on networking in the new Headquarters location. What is done there will then be sent to the field. There is now no support nor money for field offices to pilot networking.
3. Training - there hasn't been time up to this point to link the training available to specific requests.
4. Documentation - will continue to be revised. The documentation for Hearings and Legal will be available later this year.
5. Ability to purge and archive - originally it was thought that each field office could control purge of the National Data Base, but ISS staff will have to purge to make room on the NDB.

6. Mini-file - now ready to pilot. This is a partial response to the need for District offices to access data from their area, local and FEP offices.
7. Flexibility to add codes - ISS is aware of the need, but had to defer implementation because they had too many deadlines.
8. [illegible]rking/word processing - see number 1., abc..
9. Information sharing - ISS will serve as a clearing house for reports developed by field offices.
10. Easy access to management information - this will require a major redesign of the Local Data Base.
11. Bulletin board
12. Test environment
13. Ability to fix isolated errors from FEPs.

We learned that the XT's now being used for CDS will remain in the area and local offices after the NCR equipment is in place. The ratio of equipment to employees is now 4:1 and is expected to go to 3:1 this year.

The field will not have access to the National Data Base (NDB) this year. Staff in my office and in Field Management will be trained in how to obtain reports from the NDB this year so that they can relieve you from some of the burden of supplying data. The Information Resource Management plan will go to the Chairman and to the field in the second quarter. Purge capabilities should be ready in January and the mini-file sometime in the fourth quarter.

Congressional Contacts

We recently sent you a memo reviewing procedures in dealing with the Congress and their requests for non-routine information. The memo was sent as a reminder of what the procedure is when non-routine requests are made such as agency statistics, law enforcement data, etc. The non-routine requests are to be made through the Office of Communications and Legislative Affairs where responses will be coordinated. OCLA now reports that even routine contacts from Congressional offices are being referred to them by some field offices. Do not refer routine congressional inquiries to OCLA. Continue to handle routine status checks and other similar matters as you have in the past.

Immigration Reform and Control Act Due December 22, 1987

GAO submitted its first annual report to Congress.. The law requires that GAO review and report on the implementation of the employer sanctions provisions for the purpose of determining whether (1) the law has been carried out satisfactorily, (2) a pattern of discrimination has resulted against authorized workers, and (3) an unnecessary regulatory burden has been created for employers.

GAO concludes that at the end of the first year after implementation of the Act, the data is not sufficient to draw specific conclusions or to issue recommendations. "So far ... data on discrimination related to the law has not shown a pattern of discrimination or unreasonable burden on employers. However, because of the many factors involved, GAO may not be able to isolate and measure the effects of employers sanctions on any identified discrimination." GAO also believes that there won't be data available to clearly conclude that the Act's regulatory burden on employers is unnecessary.

At EEOC, as of September 1987, there were 52 charges related to employers sanctions, most still in process. After reviewing the few charges at EEOC and the Office of Special Counsel, GAO concludes that "the discrimination charges under investigation do not .... constitute (1) a pattern of discrimination or (2) an unreasonable regulatory burden for employers".

The reports will continue for the next two fiscal years. We will continue updating our records quarterly. Thus, you need to update your District Office report of charges related to IRCA as of December 15. Add any new charges and advise us of changes on those already reported. The information is due in my office by December 22, 1987. For your convenience, I am attaching, once again, a sample of the data we are collecting. Please try to be clear under "Reason Related to IRCA" that the stated reason shows that this agency has jurisdiction under Title VII. Simply saying "citizenship" or "challenged citizenship requirements" raises doubts as to whether the case should be referred to the Office of the Special Counsel. GAO also requested us to clarify the status

of cases using common terminology, such as: assigned, unassigned, under investigation, etc. GAO will conduct various visits to our district offices after January 1988. THeir sole purpose is to look at the IRCA related charges and a few national origin charges to help them with their report. The visits are not audits and they won't be assessing our work. We will keep you advised on these visits.

Since we don't yet have the MOU with Justice on this matter, our previous instructions on the transfer of records remain in effect.

Third to the Senate Labor Committee First Quarter Report

This is a reminder that the third semi-annual report to Congress on the resolution of all class and class type cases from July 1 to December 30, 1987, needs to be prepared during January 1988. We are asking you to once again submit the information typed in the format used in the attached samples so that OPO will only need to collate the material and include it with the litigation information provided by OGC. You need only summarize those conciliation agreements which resolved class charges or, alternatively, the relief secured had broad class implications (i.e., pregnancy, equal pay, harassment types of issues).

If you have no information to provide, simply type on a separate page the name [illegible]icate "This office had no class conciliation agreements during the relevant time frame." Do not mix information of cases in litigation with those in enforcement.

The report is for charges brought under Title VII. If, however, you also submit information on charges brought under ADEA do not summarize them in the same page with Title VII cases.

Submit the report with your first quarter 396 report marked to the attention of Hilda D. Rodriguez. Because of the Christmas season we are giving you early notification of this requirement.

Department of Justice Suits

We referred 293 failures of conciliations against State and local governments to the Department of Justice in FY 85 and FY 86. Of that number, DOJ filed 17 suits, including one pattern and practice suit. Attachment C is a list of the suits, date filed and district in which the suit was filed. Note that while 16 suits were filed in FY 85 and FY 86, there have been 6 suits filed so far in FY 87.

ATTACHMENT A

RECURRING PROBLEMS IN FILES

- DRP continues to find a lack of comparative data in the files. To ensure an accurate and supportable conclusion, every file should contain comparative evidence or information which enables them to determine whether similarly situated persons of a different race, sex, etc., than charging party have been accorded more favorable treatment.

- Section 26.14 of Volume I of the Compliance Manual provides guidance for analysis of evidence gathered during the investigatory process. It would enhance the quality of investigations and the DRP review process if investigators would prepare analytical cover sheets for each document or group of documents relied upon when reaching a determination.

- Section 28, Volume I, gives guidance for the format and content of the investigative file. One recurring problem is the absence of any logical arrangement or sequence of documents in the file. Again, DRP's review would be facilitated if Investigators identified documents, the issues they address, and annotated any conclusions drawn from them.

- Please be sure that LODs are mailed as soon as they are dated. Allowing time to pass between dating and mailing cuts into the time alloted for charging parties to file a request for review. This could unjustly result in a rejection of the "request" because it was untimely filed.

- When an office modifies the date by which CP must request a review and so informs CP, be sure that the Respondent is also informed.

- Be sure to fill out <u>all</u> the spaces on the Request for Review form that are supposed to be completed by the Field Office(s).

- If there is a lead charge against a "no cause" LOD, please place both the charge number and the lead charge number on the Request for Review form.

Washington, D.C. 20507

Office of
General Counsel

MEMORANDUM

TO : Regional Attorneys

FROM : Charles A. Shanor CAS
General Counsel

SUBJECT : Goals and Timetables Provisions in Proposed Title VII Consent Decrees

Goals and timetables, in appropriate cases, may be used in EEOC consent decrees to enforce [illegible] of the Civil Rights Act of 1964, as amended.1/ Because field legal units have raised several recurring questions concerning goals and timetables, this memorandum identifies and discusses the considerations which should be analyzed in consent decrees containing goals and timetables.2/

A. Factual Predicate

The Supreme Court has held that carefully tailored goals and timetables may be incorporated in Title VII consent decrees.3/ Thus, employers may establish voluntary affirmative action plans which include goals and timetables without litigation and without prima facie evidence of Title VII violations.4/ The Office of General Counsel will, however,

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1/ Goals and timetables are characterized by their express use of a Title VII basis - race, sex, religion, or national origin - upon which discrimination is prohibited.

2/ All proposed Title VII consent decrees must be presented to the General Counsel or Associate General Counsel, Trial Services, for review.

3/ Local No. 93, International Association of Firefighters v. City of Cleveland, 106 S.Ct. 3063, 3073 (1986).

4/ See Johnson v. Transportation Agency, Santa Clara County, California, 107 S.Ct. 1442 (1987); United Steelworkers v. Weber, 443 U.S. 193 (1979); Guidelines on Affirmative Action Appropriate under Title VII of the Civil Rights Act of 1964, as amended, 44 FR 4422 (January 19, 1979), 29 C.F.R. Part 1608 (1986).

require such evidence before approving goals and timetables provisions in proposed EEOC Title VII consent decrees5/ because the initial finding of discrimination in the Letter of Determination and the initial suit authorization was based on the presence of at least prima facie evidence of a Title VII violation. Accordingly, comparable evidence justifying the use of goals and timetables should be made part of the proposed consent decree and should take the form of a joint stipulation of uncontested facts.

In determining whether sufficient evidence supports the inclusion of goals and timetables in proposed consent decrees, expert analysis should be employed.6/ This analysis should determine the appropriate labor market availability figure for the position or positions in question and should be part of the obtained documentation in the case file.7/ Also, to preclude subsequent questions concerning the accuracy or validity of the availability figures included in the proposed consent decree, proposed consent decrees should explicitly state that the availability figures were based on and verified by expert analysis.

B. Magnitude

Except in extraordinary circumstances, goals should be set at, rather than above, current labor market availability as measured by census work force data or nondiscriminatory applicant flow. Thus, a short term goal should generally be set at the same level as a long term goal.

5/ Absent unusual circumstances found acceptable to the General Counsel or Associate General Counsel, Trial Services, voluntary goals and timetables should be entered into by EEOC field units only in consent decrees, not in settlements accompanied by joint notices of dismissal.

6/ As a matter of course, unless external experts have already performed such analysis, field legal units should rely upon internal experts in the Research and Analytic Services Division of the Office of General Counsel.

7/ Such goals and timetables will thus be appropriately tied to expected future applicant flow statistics. To help ensure such applicant flow, separate outreach measures should be included in the decree to encourage applications by members of the group expected to benefit from the goals and timetables provisions.

availability have been sanctioned in egregious cases of overt job discrimination.8/ If such entrenched patterns or practices of overt discrimination exist, accelerated relief (and the concomitant increased impact on third parties) should be justified separately.

C. Duration

Consent decree timetables should cover the approximate period necessary to disestablish the pattern of discrimination indicated by the evidence of Title VII's violation.9/ The goal should clearly state its termination date,10/ which will usually be on or prior to the expiration of the court's jurisdiction over the consent decree.11/

Benefits to Qualifications

Employers are only required to select qualified individuals.12/ Thus, EEOC consent decrees should state that the employer has no obligation to select unqualified individuals.

8/ Cf. United States v. Paradise, 107 S.Ct. 1053, 1071 (1987)(acceleration required by defendants' past delay and resistance to non-discriminatory procedures).

9/ See Johnson v. Transportation Agency, Santa Clara County, supra, 107 S.Ct. at 1456; United Steelworkers v. Weber, supra, 443 U.S. at 208.

10/ Because labor market availability changes over time, a goal should not normally be set for a period in excess of three years without readjustment of the goal to comport with such changing availability.

11/ For example, a termination provision might specify that the goal would become inapplicable when a non-discriminatory selection procedure is devised. Cf. United States v. Paradise, supra, 107 S.Ct. at 1063.

12/ E.g., Johnson v. Transportation Agency, Santa Clara County, supra; LeDoux v. District of Columbia, 820 F.2d 1293, 1301 (D.C. Cir. 1987).

Consent decrees containing goals and timetables should also make clear that failure to attain a goal will be excused if the employer proves by persuasive and specific evidence that it was unable to recruit or promote qualified minority or female applicants or employees.13/

E. Make Whole and Alternative Relief

In light of the Commission's Policy Statement on Remedies and Relief For Individual Cases of Unlawful Discrimination and the central make whole purpose of Title VII,14/ goals and timetables relief should not be substituted for make whole relief, including back pay, for specific victims of discrimination.15/

Goals and timetables should be considered only in the absence of effective relief which has less impact on third parties. For example, it may be unnecessary to impose numerical hiring goals where the decree specifies a particular process for identifying individual victims, making them whole, and implementing prospective selection systems which are nondiscriminatory. Moreover, where there will be relatively few

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13/ Johnson v. Transportation Agency, supra, 107 S.Ct. at 1455, approved use of sex as a "plus factor" in deciding between two promotional candidates who were both well-qualified. The Court emphasized that under the plan at issue in Johnson "no persons are automatically excluded from consideration; all are able to have their qualifications weighed against those of other applicants." Ibid. (emphasis in original). EEOC decrees likewise should be structured so that an employer considers all relevant aspects of each qualified candidate so that no candidates are isolated from competition. If sex, race, or national origin is only used as a "plus factor", EEOC can ensure that the decree does not unnecessarily trammel the rights of majority employees or create an absolute bar to their advancement. Cf. 107 S.Ct. at 1455. See also n.15 infra.

14/ The Policy Statement requires that Commission personnel seek prompt and complete relief for individual discriminatees, including nondiscriminatory placement and full backpay. Daily Labor Report No. 25 (Feb. 6, 1985). Cases supporting Title VII's make whole purpose include Teamsters v. United States, 431 U.S. 324, 364-365 (1977); Franks v. Bowman Transportation Co., 424 U.S. 409, 444 1976); Albemarle Paper Co. v. Moody, 422 U.S. 405, 421 (1975).

15/ Since goals and timetables involve no immediate monetary cost, employers in some circumstances may attempt to substitute this form of relief for relief which entails a monetary outlay.

employment decisions by a particular employer, a race or sex conscious goal may serve no practical purpose when EEOC can effectively monitor individual employment decisions by reviewing such employment records.

F. Monitoring and Enforcing Compliance

Consent decrees containing goals and timetables should be structured to facilitate enforcement by EEOC. Such decrees must provide for regular and detailed reports to EEOC in a format which will minimize EEOC's expenditure of resources on monitoring activities.

In addition, because enforcement disputes may arise over whether or not a respondent has complied in "good faith" with the goals set out in a consent decree, the phrase "good faith" should be defined objectively in terms of activities to be performed. Consent decrees should also provide that the respondent bears the burden of showing by persuasive and specific evidence why goals have not been met.

These monitoring and enforcement provisions are based on two practical considerations. First, the respondent, not EEOC, is in the best position to ascertain and disclose all the facts surrounding its employment decisions. Second, without such provisions, EEOC will expend resources unnecessarily in discovering and presenting the facts needed to secure compliance with goal provisions in consent decrees.

G. Fairness Hearings

In view of judicial sensitivity to the interests of beneficiaries and third parties who may be affected by the inclusion of goals in proposed consent decrees, it will often be prudent to ask the Court, prior to seeking judicial approval for a consent decree containing goals, to hold a fairness hearing in order to afford all affected individuals -- both beneficiaries and potentially adversely affected individuals -- an opportunity to comment on the proposed remedy.17/

16/ A principal difference between an impermissible quota and permissible goal is that the latter provides a good faith defense to its non-attainment. Cf. Johnson v. Transportation Agency, Santa Clara County, supra, 107 S.Ct. at 1455.

17/ Similar prudential concerns may arise when other remedies, such as retroactive seniority, are involved. The General Counsel may provide further guidance concerning fairness hearings generally following the Supreme Court disposition of Marino v. Ortiz, 806 F.2d 1144 (2d Cir. 1986), cert. granted, 107 S.Ct. 3182 (1987), and Hispanic Society of the New York City Police Department, Inc. v. Police Department of New York, 806 F.2d 1147 (2d Cir. 1986), cert. granted, 107 S.Ct. 3182 (1987).

Such a hearing should be sought where the consent decree establishes promotion goals, for example, because it can be expected that at least some incumbent employees will have promotion expectations which may be perceived as being adversely affected by the establishment of promotion goals.18/ Practical and effective notice of such fairness hearings should be given. For example, notice to incumbent employees may usually be effectuated through posting at the facility. Notice to applicants or potential applicants may be effectuated through letters, newspaper advertisements, and the like.19/

18/ Such a hearing will less frequently be necessary before judicial approval of proposed hiring goals is sought because the expectations of individuals not in the particular employer's workforce are not as firm as the promotion expectations of incumbent employees. Cf. United States v. Paradise, supra, 107 S.Ct. 1053 (1987). Wygant v. Jackson Board of Education, 476 U.S. 267 (1986), and Firefighters' Local 1784 v. Stotts, 467 U.S. 561 (1984), demonstrate that race-based layoff goals are seldom, if ever, appropriate.

19/ See, e.g., Settlement Agreement in EEOC v. Libbey-Owens Ford Co., Article IV (notice through regional T.V. Guide magazines).

Caption	Date Filed	District
United States v. Mississippi Wildlife Conser. (r.)	1/16/87	S.D. Miss.
United States v. Arizona Dept. Admin. (n.o.)	7/2/85	D. Ariz.
United States v. Anne Arundel County (Police) (s.)	10/23/85	D. Md
United States v. New Castle County (Police (s.)	11/27/85	D. Del.
United States v. Waukesha Co. Dept. of Social Services (r.)	12/12/85	[illegible]
United States v. Fallbrook P.P.D. (s.)	12/23/85	C.D. Cal.
United States v. Berrien Co. Health Dept. (r.)	12/23/85	W.D. Mich.
United States v. Northside I.S.D. (s.)	12/30/85	W.D. Tex.
United States v. Charleston (s.)	1/14/86	S.D. W. VA.
United States v. New Jersey Transit (s.)	4/2/86	D. N.J.
United States v. Cherokee Bd. of Ed. (r.)	4/17/86	N.D. Ga.
United States v. Brookings (S.D.) P.D. (s.)	7/8/86	D. S.D.
United States v. Pinkney Com. Schools (s.)	12/4/86	E.D. Mich.
United States v. Crawford Co. (s.)	12/23/86	E.D. Mich.
United States v. Florida Dept. of Corrections (s.)	12/23/86	N.D. Fla.
United States v. Pittsburgh Board of Education (s.)	12/23/86	N.D. Pa.
United States v. Henry Co. (Sheriff) (s.)	12/30/86	S.D. Ind.
United States v. Jacksonville (N.C.) (r.)	4/24/87	E.D. N.C.
United States v. Philadelphia Bd. of Ed. and Com. of Pa. (r.)	5/13/87	E.D. Pa.
United States v. Bradenton (F.D.) (r.)	7/27/87	M.D. Fla.
United States v. Holmes Co. (sheriff) (r.)	8/27/87	N.D. [illegible]
United States v. West Central Com. School (s.)	9/2/87	S.D. Ind.
United States v. London, Pittsburg Co. Court Clerk (ret.)	10/8/87	E.D. Okla.

UNITED STATES GOVERNMENT

Memorandum

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
PHILADELPHIA DISTRICT OFFICE

TO : Richard Kashurba, Director
Information Systems Services

DATE: December 10, 1987

In reply refer to:

FROM : Johnny J. Butler
F-PA Director

SUBJECT : CDS Coding Problems

There are several areas related to coding in which problems need to be resolved at the Hq. level in order to facilitate maximum utilization of the CDS system. These matters have already been presented to your staff, but corrective actions have not yet been taken so I am bringing them directly to your attention. These problems are as follows:

1. There is no code to reflect the transfer of an open charge to the Legal Unit for consolidation with on-going litigation. In Philadelphia we have approximately 150 such charges, mostly connected with a national-scope litigation against Westinghouse. These charges continue to be reflected as open charges on the computer listing although they are not reflected as such on the manually prepared Form 396 reports. In order to reconcile these two reports, a specific code for such actions is needed. For Form 396 purposes, it is suggested that such charges be counted as transfer from Enforcement Units to Legal.

2. There is no code for "unable to locate" closures unless such closures are for cases in which the CP has not been informed of the obligation to keep EEOC informed of any change of address (see definition for Code X4). Given that all CPs have been so informed since 1979, it is suggested that the definition for Code X4 be changed to reflect simply that the charge has been closed because of the inability of the EEOC to locate the CP. At present, we lump such closures in with failure to cooperate closures as part of Code X5. However, this then necessitates a manual count when one prepares the Administrative Closure Report (required as an attachment to the six month and final Form 396 reports for each year) as that report lists unable to locate separately from failure to cooperate closures.

3. The computer at present does not accept any of the codes related to the DRP appeals process. This necessitates tracking of such cases by manual means only. This problem will be compounded if DRP rejects any finding of the office as we would then be unable to track with the computer the reopening of the charge and any subsequent actions related thereto.

BUY U.S. SAVINGS BONDS REGULARLY ON THE PAYROLL SAVINGS PLAN

4. It is unclear whether or not separate codes are needed to track rapid and extended charges (or, using proposed new terminology, standard v. special charges.) Guidance for the Form 396 reports issued during FY 87 indicated that some monitoring of these two types of charges may be necessary, but to date no instructions have been provided to do so. In addition, there are no coding instructions to faciliate coding of charges into enforcement units. All prior instructions related to coding of charges into RCP or Extended Units but with the reorganization such nomenclature is obsolete everywhere except in the coding process.

5. Finally, there are two problems related to the coding of charges by FEP agencies. The first is that not all agencies are inputting data into the computer. While this is primarily a problem to be resolved by the field offices, it is suggested that additional leverage be given to the field offices by requiring that FEP agencies utilize the computer as intended and that this be made part of EEOC's funding principles and tied directly into the contracts with the FEP agencies. As a second problem, where the FEP agencies do input data, EEOC is still unable to access such data directly. Thus, for example, if we wish to know all charges filed against a given Respondent, including those filed with the FEP agencies, we are unable to obtain such data as it applies to the charges filed with the FEP agencies. Similarly, if one wishes to research to insure that a duplicate charge has not been filed, we are unable to access the listings of the FEP agencies to determine if the identical charge has already been filed with one of those agencies.

Your attention to the above areas is greatly appreciated.

cc:
James H. Troy, Director, OPO
John Schmelzer, Director, FMP (East)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

DEC 15

MEMORANDUM

TO : District Office Directors
Area/Local Office Directors

FROM : James H. Troy, Director
Program Operations

John Seal
Management Director

SUBJECT : 396 Reports

This memo is to announce that automated 396 reports will be developed along with the normal manual 396 reports for the first quarter FY 1988. Information Systems Services within the Office of Management is currently developing the automated 396 reports and they will distribute them to you soon. Once you receive them follow the instructions that will be enclosed for loading onto your system and processing.

We will analyze the information from the manual and automated 396 reports and work with you to resolve any major discrepancies.

It is critical that your local data bases be accurate before the automated reports are processed so they will reflect the current case load status in your office.

If this next major step towards report automation works well, we should be able to eliminate manual 396 reports for the second quarter.

cc: Jackie Shelton
John Schmelzer

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

DEC 22 1987

MEMORANDUM

TO: District Directors

FROM: John Schmelzer, Director
Field Management Programs, East

Jacquelyn J. Shelton, Director
Field Management Programs, West

SUBJECT: Field Office Computers

With the addition of new computers to field offices, the Chairman has requested that we provide him with a complete listing of where computers have been assigned in each office. In order to meet this request, please provide a breakdown of the number of computers in each unit in your office. This list should include all computers in your office, not just the new ones which you received at the end of FY 87. We are also requesting that you provide these same figures for area and local offices. Please send this information to your program analyst by January 5, 1988.

UNITED STATES GOVERNMENT

Memorandum

TO : [illegible]
Program Analyst, Programs East

DATE : December 2[illegible], 1987

FROM : James D. Packowski, Jr.
Acting District Director

In reply refer to:

SUBJECT : Field Office Computers

The following is a listing of computers assigned in the Detroit District Office:

UNIT	EQUIPMENT ASSIGNED
Hearings	1 - PS2/30
Legal	2 - PS2/30's 1 - IBM PCXT
Admin	1 - PS2/50
Personnel	1 - PCXT
Systemic	1 - PS2/60
CRTIU	1 - PS2/30
Director's Secretary/ Compliance Mgr's Secretary	1 - PS2/30
Enforcement 1	1 - PS2/30
Enforcement 2	1 - PS2/30
Enforcement 3	1 - PS2/30
Enforcement 4	1 - PS2/30
Enforcement 5	1 - PS2/30
MIS	1 - PS2/30
General Office	1 - Display Writer
	1 - PCXT
	1 - PC
	2 - Zeneith Laptop
	1 - PS2/30
TOTALS:	12 - PS2/30
	1 - PS2/50
	1 - PS2/60
	1 - Display Writer
	3 - PCXT
	1 - PC
	2 - Laptop
	21 - Total

The above figures do not include the CDS Minitower nor the Anderson Jacobson terminal currently being used in Systemic.

cc Birtha Ramsey, MIS

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[illegible]
U.S. [illegible] COMMISSION
[illegible] PLAZA SUITE 108-B
211 CENTURY DRIVE
GREENVILLE S C 29607

Memorandum

DATE December 29, 1987

In reply refer to:

TO Donna Seabolt
MIS

FROM Walter D. Champe, Director
Greenville Local Office

SUBJECT Location of Office Computers

Per your telephone request, December 29, 1987, listed below are locations of each computer in this local office.

Deloris Smith - BOA Office - PC 2
Gwen Musgrove - BOA Office - IBM XT
Claudia Thompson - Receptionist Area - IBM XT

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Greensboro Area Office
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
324 W. Market, Room 427, PO Box 3363
Greensboro, North Carolina 27402-3363

M E M O R A N D U M

TO : R. Edison Elkins
District Director

FROM : Vicente U. Columna
Local Office Director

SUBJECT: Locations and Models/type of Computer Equipment

Per your request the following information regarding locations and type of computer equipment in this office is submitted.

Location	Model	SerialNumber
Hallway adjacent to the supply room	IBM PC XT	56193115160
	Key Tronic	
	Key board	724735
	NEC Printer	541639981
	Monitor	0944893
	Laser Printer	B008288
	Paper Tray	703A0000826
Conference room	Panafax UF-600SF	10707144
	Okidata Printer	B006007
	IBM Monitor	0084365
	IBM Keyboard	2341664
	IBM Personal System 2 Model 30	72-1056854
	IBM Personal System 2 Monochrome display	720210238
	Mountain	01-05730-01

VUC:drd

RALEIGH AREA OFFICE
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
127 W. HARGETT ST., SUITE 600
RALEIGH, N. C. 27601

MEMORANDUM

December 29, 1987

TO: Levonne Pearce
Regional Programs East

FROM: Richard E. Walz
Director Raleigh Area Office

SUBJECT: Location of Computers in the Raleigh Area Office

IBM Personal System 2 in reception area. Assigned to Area Director's Secretary, Pat Everett.

IBM Personal System 2 in Enforcement Unit I. Assigned to Unit Clerk, Rita Shyrock

IBM Personal System 2 in Enforcement Unit II. Assigned to Unit Clerk, Julia Voliva

IBM Personal System 2 in Control Room. Available for use of all office personnel

IBM Personal Computer in Control Room. Available for use of all office personnel

IBM Personal Computer XT in Control Room. Contains CDS Data Base. Assigned to Management Information Specialist, Karen Ravenell

IBM Personal Computer in Senior Trial Attorney's office. Assigned to Senior Trial Attorney, John Meuser

The computers assigned to specific personnel are available for use by entire office staff when not in use by primary operator.

12/29/1987 12:31 EEOC RALEIGH NC 919 856-4151 18787173 P.01

memorandum

DATE: December 31, 19[illegible]

REPLY TO ATTN OF:

SUBJECT: Field Office Computer Distribution

TO: Whit Walker, Program Analyst
Field Management Programs East

The following is the breakdown of the distribution of PC's in the Miami District Office.

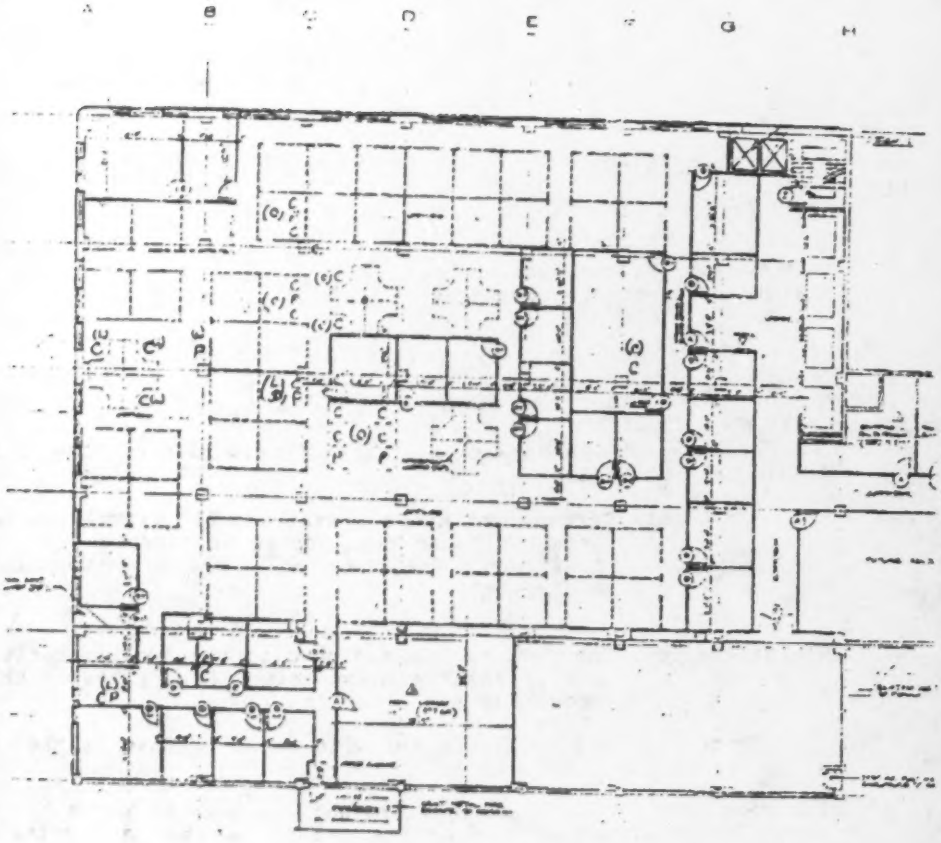
Legal: Three computers are assigned exclusively to the Legal Unit and are located at clerical positions. One computer is shared between Legal and Systemic.

Administration: One computer is assigned to the Administrative office for their exclusive use. (This is the Model 50)

Systemic: Shares 1 computer with Legal. (This is the model 60)

The remainder of our computers are not assigned to units but are shared by everyone in the office. This has had a significant impact on our professional staff as the majority have taken to the computers like "Ducks to Water". We have discovered by not assigning computers to units we get a significantly higher usage time. The reason being it eliminates the psychological feeling of the machine belonging to someone else and should not be used without permission.

OPTIONAL FORM NO. 10
(REV. 1-80)
GSA FPMR (41 CFR) 101-11.6
5010-114
* U.S.G.P.O. 1980-341-242/6011



SIXTH FLOOR PLAN

(L) = Legal
(A) = Admin
(S) = Systemic
(O) = Others

DEC 2 1 1987

MEMORANDUM

TO: Jackie Shelton, Director
Field Management Office - West

FROM: Lynn Bruner
District Director

SUBJECT: CDS

This is to advise that the St. Louis District Office has not yet received it's hard disk, which was promised last week. As a consequence, we are unable to run certain of our management reports because of the lack of disk space. In addition, we will not be able to load the new CDS program, or to generate any reports which might be dependent upon that program, until the hard disk is received.

We have previously been advised that 396s for the first quarter are to be generated locally. Since that 396 program is part of the new CDS update, and since we will not be able to load the CDS update until the hard disk is received, we may not be able to generate a computerized 396 in time to meet the normal deadline.

I will keep you posted on our progress.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

December 31, 1987

Memorandum:

To : James Troy, Director
Office of Program Operations

From : John Schmelzer, Director
Field Management Programs East

Sub : Bi-Weekly Activity Report December 21 through December 31, 1987

A. Program Activity

I. Field Office Activities:

a. Budget

b. Travel

c. Personnel

Met with Union representatives to discuss an alleged problem in the Memphis District.

d. FEPA Contracts

e. Meetings

II. Other Field Management Activities

a. Finalized and sent to affected District Offices a directive requiring the transfer of 451 Federal Hearings cases from understaffed offices to offices where the cases can be promptly considered.

b. Forwarded an analysis of the Detroit District Office to the newly designated Director.

c. Met with SIICP staff to discuss FY 1988 Systemic goals.

d. Continued work on FY 1988 Compliance and Hearings Goals. Presented proposals to the Program Director and prepared a memorandum outlining the assumptions and calculations used to arrive at the proposed goals.

e. Prepared a memorandum outlining the problems with the design of the current FEPA monthly reporting system and forwarded with proposed revisions to SIICP Director.

f. Drafted a proposal for the jurisdictional realignment of the Jackson Office from Birmingham to the New Orleans District.

g. Coordinated with Personnel Services the interpretation and transmission to the field, of information from OPM granting all personnel 4 hours of administrative leave on 12/24/87.

h. Began revisions to the 396 reports necessitated by the FY 1988 goals.

III. Pending Decisions

IV. Upcoming Events

a. FMP East District Director's meeting in Atlanta.

Atlanta District Office
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Citizens Trust Building, Suite [illegible]
75 Piedmont Avenue, N.E.
Atlanta, Georgia 30335

MEMORANDUM

DATE: January 4, 1988

TO: John Schmelzer, Director
Field Management Programs, East

FROM: Harris A. Williams, Director
Atlanta District Office

SUBJECT: Location of Atlanta District Office Computers

There are five (5) IBM Personal Computers, twenty-one (21) Personal System/2 Computers, one (1) Zenith Lap-Top Computer and one (1) NCR Mini-Tower with two (2) terminals in the Atlanta District Office.

Attached, please find a list of the locations of each, per your December 22, 1987, memorandum.

District Director
IBM PS/2 Model/30

Deputy Director
IBM PS/2 Model/30

Mgmt Info Specialist
IBM PS/2 Model/30
Terminal from NCR Mini-Tower

Personnel Clerk
IBM PS/2 Model/30

Compliance Mgr-Enforcement Group I
IBM PS/2 Model/30

Compliance Mgr's Secretary
IBM PS/2 Model/30

Enforcement Unit I
IBM PS/2 Model/30

Enforcement Unit III
IBM PS/2 Model/30

Compliance Mgr-Enforcement Group II
IBM PS/2 Model/30

Compliance Mgr's Secretary
IBM PS/2 Model/30

Enforcement Unit VI
IBM PS/2 Model/30

Systemic Unit Clerk
IBM PS/2 Model/30

Regional Attorney's Secretary
IBM PS/2 Model/30

Legal Clerk
IBM PS/2 Model/30

Legal Clerk
IBM Personal Computer, XT

Director's Secretary
IBM PS/2 Model/30

Deputy's Secretary
IBM Personal Computer

Budget Analyst
IBM PS/2 Model/50

Federal Affir Act Clerk
IBM Personal Computer

Hearings Legal Clerk
IBM PS/2 Model/30

RFI Clerk
IBM Personal Computer, XT

Enforcement Unit II
IBM PS/2 Model/30

Control Clerk
NCR Mini-Tower and one terminal

Enforcement Unit IV
IBM PS/2 Model/30

Enforcement Unit V
IBM PS/2 Model/30

Systemic Unit
IBM PS/2 Model/60

Clerk
IBM Personal Computer, XT

Attorney Supervisor
Zenith Lap-Top Computer

Memorandum

John Schaeffer, Director
Field Management Programs, East

DATE January 4, 1988

In reply refer to:

FROM : Dorothy E. Mead
District Director

SUBJECT: Field Office Computers

Attached pursuant to your request is a list showing the assignment and location of new and old computer equipment. Computers are assigned to specific functions including the Office of the Director, Administration, Legal, Compliance, Systemic, and Hearings.

Computers are set up to ensure maximum accessibility to all users including supervisors, investigators, and attorneys.

We welcome additional equipment at any time.

Computer Assignments BALTIMORE DISTRICT OFFICE

Office of the Director

1 PS2, model 30
1 laptop (we have not received this yet, ISS still using for training)
1 NCR tower for CDS (with 2 CRTs)

Administration

1 PS2, model 30
1 PS2, model 50 (used for budget only)

Hearings

4 PS2, model 30s
1 Lexitron

Legal

2 PS2, model 30s
2 PC-XTs
1 PC
1 Lexitron

Systemic

1 PS2, model 60

Compliance

12 PS2, model 30s
1 PC

Computer Assignments NORFOLK AREA OFFICE

Office of the Director

1 PC-XT for CDS

Compliance

4 PS2, model 30s
1 PC

Computer Assignments RICHMOND AREA OFFICE

Office of the Director

1 PS2, model 30
1 PC-XT for CDS
1 PC

Compliance

5 PS2, model 30s

Computer Assignments WASHINGTON AREA OFFICE

Office of the Director

1 PC-XT for CDS

Hearings

4 PS2, model 30s

Compliance

4 PS2, model 30s
2 PCs

January 5, 1988

MEMORANDUM

TO : John Schmeizer, Director
Field Management Programs, East

FROM : George Frank Jordan
District Director

SUBJECT: Field Office Computers

A complete listing of where computers have been assigned is enclosed. This information is provided in accordance with your December 22, 1987, memorandum.

Enclosure

BIRMINGHAM DISTRICT OFFICE

Office of Director (2)

1. Management Information Spec	IBM MODEL 30 + MINITOWER
2. Director's Secretary	IBM MODEL 30

Administrative Unit (6)

3. Computer Room	IBM PC-XT
4. Computer Room	IBM PC
5. Computer Room	IBM PC
6. Administrative Officer	IBM MODEL 30
7. Budget Analyst	IBM MODEL 30
8. Personnel/Administrative	IBM MODEL 30

Legal Unit (4)

9. Regional Attorney	IBM MODEL 30
10. Legal Clerk	IBM MODEL 30
11. Clerk Typist	IBM MODEL 30
12. Secretary to Regional Atty	IBM PC-XT

Compliance (12)

13. Compliance Manager	IBM MODEL 30
14. Systemic	IBM MODEL 30
15. Systemic	IBM MODEL 60
16. CR-TIU	IBM MODEL 30
17. CR-TIU	IBM MODEL 30
18. CR-TIU	IBM MODEL 30
19. Enforcement I	IBM MODEL 30
20. Enforcement II	IBM MODEL 30
21. Enforcement III	IBM MODEL 30
22. Enforcement IV	IBM MODEL 30
23. Enforcement V	IBM MODEL 30
24. Enforcement VI	IBM MODEL 30

Hearings (1)

25. Secretary to Hearings Unit	IBM PC-XT

Jackson Area Office

Office of Director (1)

1. Director's Secretary	IBM PC

Compliance (8)

2. Computer Room	IBM PC-XT
3. Computer Room	IBM MODEL 30
4. CR-TIU	IBM MODEL 30
5. CR-TIU	IBM MODEL 30
6. Enforcement I	IBM MODEL 30
7. Enforcement II	IBM MODEL 30
8. Enforcement III	IBM MODEL 30
9. Supervisory Enforcement I	Laptop

CHARLOTTE DISTRICT OFFICE
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
5500 CENTRAL AVENUE
CHARLOTTE, NORTH CAROLINA 28212
EEOC 413

MEMORANDUM

TO : LaVonne Pearce
Regional Programs, East

FROM : R. Edison Elkins
Director

SUBJECT : Location of Computers

The following is a list of computer equipment and the location in the office.

Computer Room

3 IBM System/2's
1 NCR Mini-Tower with 2 terminals

Director

1 IBM System/2

Director's Secretary

1 IBM System/2

Regional Attorney

1 IBM-PC

Regional Attorney's Secretary

1 IBM-PC-XT

Compliance Managers' Secretary

1 IBM-PC-XT

Systemic

1 IBM-PC

Administrative Unit

1 IBM System/2
1 IBM-PC-XT

5 Work Centers

9 IBM System/2's

Legal Unit

2 CPT's (word processing equipment)

2 laptop computers available for use upon request.

Generally all the computers are accessible to all employees with the exception of the Admin Unit's IBM PS/2 which is used to maintain the District's cuff records.

Totals:

IBM-PC-XT's:	3
IBM-PC's:	2
IBM System/2's:	15
Laptops:	2
CPT's:	2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1375 EUCLID AVENUE
CLEVELAND, OHIO 44115

District Office

January 5, 1988

In reply refer to

MEMORANDUM

TO: Thomasenia Love
Program Analyst
Field Management Programs, East

FROM: Harold Ferguson
District Director

SUBJECT: Field Office Computers

As requested, the attached listing reflects the location of all Cleveland District Office computers and assigned supervisors.

TYPE EQUIPMENT	ROOM NUMBER	ASSIGNED TO:
COMPUTER SCREEN (WYSE)	612C	B.Spotts
COMPUTER KEYBOARD (WYSE WY 75)	612C	B.Spotts
COMPUTER PROCESSOR	613	B.Spotts
COMPUTER IBM PC PROCESSOR	613	B.Spotts
COMPUTER KEYBOARD	613	B.Spotts
COMPUTER SCREEN	613	B.Spotts
COMPUTER IBM XT KEYBOARD	613	B.Spotts
COMPUTER IBM PC SCREEN	613	B.Spotts
COMPUTER SCREEN	614	B.Spotts
COMPUTER PROCESSOR	614	B.Spotts
COMPUTER KEYBOARD	614	B.Spotts
COMPUTER PROCESSOR	616	D.Pope
COMPUTER KEYBOARD	616	D.Pope
COMPUTER SCREEN	616	D.Pope
COMPUTER KEYBOARD	621	C. Harrington
COMPUTER PROCESSOR	621	C. Harrington
COMPUTER SCREEN	621	C. Harrington
COMPUTER KEYBOARD	625C	J.Kay
COMPUTER SCREEN	625C	J.Kay
COMPUTER PROCESSOR	625C	J.Kay
COMPUTER SCREEN	626	J.Scott
COMPUTER KEYBOARD	626	J.Scott
COMPUTER PROCESSOR	626	J.Scott
COMPUTER SCREEN	631	J.Reese
COMPUTER PROCESSOR	631	J.Reese
COMPUTER KEYBOARD	631	J.Reese
COMPUTER PROCESSOR XT	634	Q.Pride
COMPUTER PROCESSOR	634	Q.Pride
COMPUTER SCREEN	634	Q.Pride
COMPUTER KEYBOARD (COLOR)	634	Q.Pride
COMPUTER PROCESSOR (COLOR)	634	Q.Pride
COMPUTER KEYBOARD (IBM PC)	634	Q.Pride
COMPUTER SCREEN (IBM PC)	634	Q.Pride
COMPUTER SCREEN (COLOR)	634	Q.Pride
COMPUTER KEYBOARD	634	Q.Pride
COMPUTER SCREEN (WYSE)	634	Q.Pride

COMPUTER KEYBOARD (WYSE)	634	Q.Pride
COMPUTER KEYBOARD	637	J.Sargent
COMPUTER PROCESSOR	637	J.Sargent
COMPUTER SCREEN	637	J.Sargent
COMPUTER KEYBOARD	645	W.Albert
COMPUTER SCREEN	645	W.Albert
COMPUTER PROCESSOR	645	W.Albert
COMPUTER PROCESSOR	650	H.Ferguson
COMPUTER SCREEN	650	H.Ferguson
COMPUTER SCREEN	650	H.Ferguson
COMPUTER PROCESSOR	650	H.Ferguson
COMPUTER KEYBOARD	650	H.Ferguson
COMPUTER PROCESSOR	650	H.Ferguson
COMPUTER SCREEN	650	H.Ferguson
COMPUTER KEYBOARD	650	H.Ferguson
COMPUTER KEYBOARD	650	H.Ferguson
COMPUTER KEYBOARD	651	H.Ferguson
COMPUTER PROCESSOR	651	H.Ferguson
GRAPHICS PLOTTER	651	D.Monley
COMPUTER LAPTOP	651	H.Ferguson
COMPUTER SCREEN	651	H.Ferguson
COMPUTER SCREEN	651C	H.Ferguson
COMPUTER PROCESSOR	651C	H.Ferguson
COMPUTER KEYBOARD	651C	H.Ferguson
COMPUTER KEYBOARD	651C	H.Ferguson
COMPUTER PROCESSOR	651C	H.Ferguson
COMPUTER SCREEN	651C	H.Ferguson
COMPUTER KEYBOARD	653C	L.Mays
COMPUTER SCREEN	653C	L.Mays
COMPUTER PROCESSOR	653C	L.Mays
COMPUTER KEYBOARD	654C	R.Bauders
COMPUTER SCREEN	654C	R.Bauders
COMPUTER PROCESSOR	654C	R.Bauders
COMPUTER SCREEN	657	L.Watson
COMPUTER PROCESSOR	657	L.Watson
COMPUTER KEYBOARD	657	L.Watson
COMPUTER PROCESSOR	659C	L.Watson
COMPUTER KEYBOARD	659C	L.Watson
COMPUTER SCREEN	659C	L.Watson
COMPUTER LAPTOP	663	Q.Pride
COMPUTER SCREEN	CINCI 7015AA	E.Haley
COMPUTER KEYBOARD	CINCI 7015AA	E.Haley
COMPUTER PROCESSOR	CINCI 7015AA	E.Haley
COMPUTER LAPTOP	CINCI 7015AA	E.Haley
COMPUTER SCREEN	CINCI 7015BB	J.Mayfield
COMPUTER PROCESSOR	CINCI 7015BB	J.Mayfield
COMPUTER KEYBOARD	CINCI 7015BB	J.Mayfield
COMPUTER PROCESSOR	CINCI 7015CC	W.Ketron
COMPUTER KEYBOARD	CINCI 7015CC	W.Ketron
COMPUTER SCREEN	CINCI 7015CC	W.Ketron
COMPUTER SCREEN	CINCI 7015H	E.Haley
COMPUTER KEYBOARD	CINCI 7015H	E.Haley
COMPUTER PROCESSOR	CINCI 7015H	E.Haley
COMPUTER KEYBOARD (IBM PC)	CINCI 7015I	H.Glutz
COMPUTER PROCESSOR XT	CINCI 7015I	H.Glutz
COMPUTER SCREEN (IBM PC)	CINCI 7015I	H.Glutz

UNITED STATES GOVERNMENT

Memorandum

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
MEMPHIS DISTRICT OFFICE

Date *January 4, 1988*

TO *Truman Harris*
Program Analyst

In reply refer to:

FROM *W. S. Grabon*
District Director

SUBJECT: *Field Office Computers*

This memorandum is in response to the memorandum dated December 22, 1987 from John Schmelzer and Jacquelyn Shelton on the same subject. The Memphis District Office is very pleased with the allocation of ADP equipment to Field Offices and has allotted the available equipment so that each Unit or function has at least one computer for use as support. The equipment has been assigned as follows:

A. *Memphis District Office*

Management:	*1 - IBM PS/2 Model 30* *1 - IBM PS/2 Model 50*
Intake:	*1 - IBM PS/2 Model 30* *2 - IBM PCs* *1 - IBM PCXT*
Legal:	*2 - IBM PS/2 Model 30s* *1 - IBM PCXT* *1 - Lanier Word Processor (does not actually qualify as a computer but is available at present for use)*
Hearings:	*1 - IBM PS/2 Model 30*
Enforcement Unit 1:	*1 - IBM PS/2 Model 30*
Enforcement Unit 2:	*1 - IBM PS/2 Model 30* *1 - NCR PCXT*
Enforcement Unit 3:	*1 - IBM PS/2 Model 30*
Enforcement Unit 8:	*1 - IBM PS/2 Model 30*
Computer Room:	*1 - IBM PCXT* *1 - NCR Mini-Tower*

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Administration:	*1 - IBM PS/2 Model 30* *1 - IBM PS/2 Model 60* *1 - Zenith Desk Top (available for sign-out to staff members)*

B. Little Rock

Intake:	*1 - IBM PS/2 Model 30*
Enforcement Unit 9/ Management:	*2 - IBM PS/2 Model 30s (one of these computers is still in the carton because it was received within the last week)*
Enforcement Unit 4:	*1 - IBM PS/2 Model 30*
Enforcement Unit 5:	*1 - IBM PS/2 Model 30*
Computer Room:	*1 - IBM PS/2 Model 30* *1 - IBM PC* *1 - IBM PCXT*

C. Nashville

Intake:	*1 - IBM PS/2 Model 30* *1 - IBM PC*
Enforcement Unit 6:	*1 - IBM PS/2 Model 30*
Enforcement Unit 7:	*1 - IBM PS/2 Model 30*
Management:	*1 - IBM PS/2 Model 30* *1 - Zenith Lap Top (this piece of equipment is available for sign-out for all employees)*
Computer Room:	*1 - IBM PCXT*

I hope the above is sufficient to meet your information needs. Please let me know if I can assist you further.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NEW ORLEANS DISTRICT OFFICE
F EDWARD HEBERT FEDERAL BUILDING
600 SOUTH MAESTRI PLACE, ROOM 528
NEW ORLEANS, LOUISIANA 70130

IN REPLY REFER TO: FNO-ADM
MAN 1-2
PER 1-1-4

MEMORANDUM

TO: Truman Harris, Program Analyst
Field Management Programs, East

DATE: January 4, 1988

FROM: Percy Courseault, Jr.
Administrative Officer

SUBJECT: Field Office Computers

Per your request of December 22, 1987, a listing of the distribution of computers in the New Orleans District Office is attached.

If further information is needed, please do not hesitate to contact me again.

Attachment

cc: Patricia T. Fields
District Director

PCJ:dvw

SERIAL NUMBERS

LAPTOPS

PATRICIA T. FIELDS	#8361388902	DISTRICT DIRECTOR
GEORGE RICE	#8371000302	ENFORCEMENT GROUP II
JOHN WRIGHT	(SHARED)	ENFORCEMENT GROUP I
ESTELLE FRANKLIN	#8371023302	REGIONAL ATTRONEY

PS II, MODEL 30

1. SONJA LAMPTON — DIRECTOR'S SECRETARY
   MONITOR 72-0091640
   CPU 72-1154937
   KEYBOARD 1084851
   LASER PRINTER B 007222

2. DORIS PATTERSON — DEPUTY DIRECTOR'S SECRETARY
   MONITOR 72-0092464
   CPU 72-1157199
   KEYBOARD 1052015
   PRINTER SHARED WITH LAMPTON

3. MILDRED BUTLER — ENFORCEMENT GROUP III
   MONITOR 72-0092583
   CPU 72-1154984
   KEYBOARD 1052014
   LASER PRINTER B 008744

4. GAYLOR SPILLER — ENFORCEMENT GROUP VI
   MONITOR 72-0095593
   CPU 72-1157233
   KEYBOARD 1050295
   PRINTER SHARED WITH BUTLER

5. JOAN WHITE — ENFORCEMENT GROUP I
   MONITOR 72-0092399
   CPU 72-1157221
   KEYBOARD 1052018
   LASER PRINTER B 007219

6. ELAINE JORDAN — ENFORCEMENT GROUP II
   MONITOR 72-0091645
   CPU 72-1154923
   KEYBOARD 1050349

7. LAURIE HANFORD — ENFORCEMENT GROUP IV
   MONITOR 72-0091947
   CPU 72-1157621
   KEYBOARD 1047619
   LASER PRINTER B 007224

8. KIM COSIE — ENFORCEMENT GROUP V
   MONITOR 72-0092343
   CPU 72-1154936
   KEYBOARD 1052007
   PRINTER SHARED WITH HANFORD

9. TREMAYNE SEVERIN — COMPLIANCE MANAGERS' SECRETARY
   MONITOR 72-0101588
   CPU 72-1005781
   KEYBOARD 1067541
   LASER PRINTER B 007218

10. NANCY NEWPILL — HEARINGS UNIT
    MONITOR 72-0087113
    CPU 72-1005370
    KEYBOARD 1062598
    PRINTER SHARED WITH SEVERIN

11. MARGARET WAGNER — CHARGE RECEIPTS UNIT
    MONITOR 72-0091946
    CPU 72-1167877
    KEYBOARD 1050301
    LASER PRINTER B 009433

12. YOLANDA MARIONEAUX — LEGAL UNIT
    MONITOR 72-0092457
    CPU 72-1157613
    KEYBOARD 1050325
    LASER PRINTER B 009429

13. DARLENE VICKNAIR — LEGAL UNIT
    MONITOR 72-0089436
    CPU 72-1154871
    KEYBOARD 1084523

14. DE ETRA BRANCH — MIS
    MONITOR 72-0115709
    CPU 72-1137440
    KEYBOARD 1391401
    EXTERNAL DISK DRIVE 86-0068676
    PRINTER SHARED WITH OPERATIONS

PS II, MODEL 50

1. OPERATIONS — OPERATIONS UNIT
    MONITOR 72-8126448
    CPU 72-0103014
    KEYBOARD 2052160
    LASER PRINTER B 009422

PS II, MODEL 60

1. SYSTEMIC — SYSTEMIC UNIT
    MONITOR 72-0206505
    CPU 72-9014142
    KEYBOARD 2354407

IBM PC

1. EVELYN JONES — SYSTEMIC UNIT
    MONITOR 0945488
    CPU 1594461
    NEC 3550 PRINTER 541614233

2. OPERATIONS — OPERATIONS UNIT
    MONITOR 0941612
    CPU 1599777
    NEC 3550 PRINTER 541638345

IBM PCXT

1. LEGAL UNIT — LEGAL UNIT
    MONITOR 5572098
    CPU 6021120
    EPSON LQ 1500 PRINTER 105856

2. LEGAL UNIT — LEGAL UNIT
    MONITOR 6151570
    CPU 4270065
    NEC 3550 PRINTER 541688967

3. PAULETTE REYNOLDS — MANAGEMENT
    MONITOR 3668623
    CPU 6173170
    NEC 3550 PRINTER 541640241

4. UNASSIGNED — UNASSIGNED
    MONITOR 0998577
    CPU 5732045
    EPSON FX-100 PRINTER 549022
    (PRINTER IS NOT LETTER QUALITY)

WYSE TERMINAL

1. DE ETRA BRANCH — MIS
    MONITOR 0040002212
    NCR MINITOWER 032107
    EPSON LQ 1500 PRINTER 105043
    PRINTER SHARED WITH BRANCH

2. MARGARET WAGNER — CONTROL CLERK
    MONITOR 0212976

memorandum

DATE: January 6, 1988

REPLY TO ATTN OF: Edward Mercado
District Director

SUBJECT: Field Office Computers

TO: Ralph Soto
Program Analyst

Pursuant to John Schmelzer's memo dated December 22, 1987 re the above mentioned subject matter, the attached list covers the New York District, Boston Area and Buffalo Offices.

Dec 87 NEW YORK COMPUTERIZED OPERATIONAL MANAGEMENT PROGRAM Page

EEOC - NEW YORK DISTRICT OFFICE
PERSONAL COMPUTER SYSTEMS REPORT

GORDON LUNG, MIS
(FTS) 264-7165

OFFICE	UNIT	SUB-UNIT	UNIT	OFFICE	DISTRICT
NEW YORK OFFICE:					
	DISTRICT DIRECTOR				
	IMMEDIATE OFFICE *	5		38	
	ADMINISTRATION	5			
	FAA	1			
	HEARINGS	2	13		
	ENFORCEMENT GROUP A				
	IMMEDIATE OFFICE	1			
	ENFORCEMENT A1	1			
	ENFORCEMENT A2	1			
	ENFORCEMENT A3	1			
	SYSTEMIC	2	6		
	ENFORCEMENT GROUP A				
	IMMEDIATE OFFICE **	2			
	ENFORCEMENT B1	2			
	ENFORCEMENT B2	1			
	CHARGE RECEIPT	6	11		
	LEGAL UNIT				
	IMMEDIATE OFFICE	2			
	UNIT A	3			
	UNIT B	3	8		
BOSTON AREA OFFICE					
	IMMEDIATE OFFICE		1	9	
	CHARGE RECEIPT		2		
	ENFORCEMENT UNIT I		3		
	ENFORCEMENT UNIT II		3		
BUFFALO LOCAL OFFICE:					
	IMMEDIATE OFFICE		3	3	
DISTRICT: ***					50

Note: * Includes MIS and Units for District Wide Usage
** Includes State & Local Coordinator
*** Total 50 Units Consisting of 41 PS/2s Model 30, 1 PS2 Model 5
1 PS/2 Model 60, 5 IBM XTs, 1 IBM PC, and 3 Lap Tops.

UNITED STATES GOVERNMENT

Memorandum

PHILADELPHIA DISTRICT OFFICE

TO : Thomasenia Love
Program Analyst, Field Mngt.
Program East

DATE: 01/05/88

In reply refer to:

FROM : Johnny J. Butler
District Director

SUBJECT : Philadelphia District Computer Assignments

Attached per Field Management Director's memorandum, dated December 22, 1987, is the listing of computer assignments for the Philadelphia District Offices.

Attachments

DJ/tmw

BUY U.S. SAVINGS BONDS REGULARLY ON THE PAYROLL SAVINGS PLAN

FIELD OFFICE COMPUTER ASSIGNMENTS (CON'T)

PITTSBURGH AREA

ASSIGNED TO	PC	PC-XT	PS/2-30	PS/2-50	PS/2-60	LAP TOP	[illegible]
DIR SEC			1				
CVTI		1	2				
FAP-1			1				
FAP-2			1				
FAP-3	1		1			1	
PITTSBURGH TOTAL	1	1	6			1	

NEWARK AREA

ASSIGNED TO							
DIR'S SEC			1				
CVTI		2	1				
FAP-1			2				
FAP-2			2				
OFFICE WIDE							
NEWARK TOTAL		2	6				

DISTRICT TOTALS	5	5	32	1	1	8	1

PHILADELPHIA DISTRICT

ASSIGNED TO	PC	PC-XT	PS/2-30	PS/2-50	PS/2-60	LAP TOP	EX
CTI	1						
EF-1			1				
EF-2			1				
EF-1-2						1	
MS			1				
EF-3			1				
EF-4			1				
EF-5	1						
EF-3-4-5						1	
D.R'S SEC			1				
ADMIN		1		1			
F/A			1				
F/A & ADMIN						1	
RIS ATTY SEC			1				
LEGAL UNIT	1	1	2		1	2	1
HEARINGS UNIT	1		2			1	
UNASSIGNED (Inc'd 1/5/87)			8				
PHILA TOTAL	4	2	20	1	1	6	1

TOTAL P.03

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

JAN 11 1988

MEMORANDUM

TO: John Seal
Management Director

FROM: Richard Kashurba, Director
Information Systems Service

SUBJECT: CDS Implementation Status (Monthly Feedback) Report

We are attaching a current report showing, by exception, specific outstanding CDS problems by office, together with a summary on the status of the National Data Base Upload.

1284

Attachment
cc: John Schmeltzer
Jackie Shelton

CDS IMPLEMENTATION STATUS REPORT

(MONTHLY FEEDBACK REPORT)

AS OF JANUARY 11, 1988

1. SUMMARY

AS OF JANUARY 11, 66 FEPA OFFICES HAD BEEN LOADED ONTO THE NDB, WITH TWO REMAINING TO BE LOADED. CHARGE TEST DATA FOR THE FILTER PROGRAMS FOR THE REMAINING TWO OFFICES HAS BEEN RECEIVED AND THE PROGRAMS HAVE BEEN SUCCESSFULY TESTED FOR CHARGE DATA, BUT NOT FOR ACTION/BENEFIT DATA, WHICH HAS NOT BEEN RECEIVED. LETTERS HAVE BEEN SENT TO THE TWO OFFICES REQUESTING THEIR COOPERATION IN FURNISHING THE ADDITIONAL DATA. AS OF JANUARY 11, THE NDB CONTAINED A TOTAL OF 329,339 CHARGES.

2. EEOC OFFICES WITH SPECIFIC OUTSTANDING PROBLEMS

A LARGER DISK IS BEING INSTALLED IN NORFOLK'S MACHINE.

4. FEPA OFFICES WITH SPECIFIC PROBLEMS

THE FOLLOWING OFFICES REQUIRE LARGER DISKS: ALASKA, GEORGIA, OKLAHOMA, NEW MEXICO, WEST VIRGINIA, SEATTLE, UTAH, D.C., RHODE ISLAND, PHILADELPHIA, NEW YORK CITY AND FT. WAYNE. ALL HAVE BEEN SENT, AND NEW YORK CITY'S AND D.C.'S HAVE BEEN INSTALLED.

3. OTHER

THE NEW VERSION OF CDSBASE HAS BEEN DISTRIBUTED TO ALL OFFICES.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

JAN 12 1988

OFFICE OF
THE CHAIRMAN

MEMORANDUM

TO: District Office Directors
Area Office Directors
Local Office Directors

FROM: Clarence Thomas
Chairman

SUBJECT: Case Management Initiatives

As each of you is keenly aware, we are striving for the highest quality law enforcement program this agency is capable of achieving. The public must be provided with effective, professional service in an efficient and timely manner. The standard is excellence.

In our quest for quality, this agency is moving forward on a number of initiatives. Among these are: (1) recruitment of highly qualified and skilled employees, (2) technological upgrading and use of EEOC's charge data system (3) appropriately thorough investigations and just dispositions of all charges filed, and (4) comprehensive training for our field investigative teams, with subsequent implementation of the techniques that are taught. These initiatives are neither optional nor discretionary.

The culmination of our efforts will be the implementation of a comprehensive case development and management system -- a system that will remain permanently in place. The result will be an EEOC that operates as an efficient, effective, and enduring law enforcement agency.

The need for effective case development and management cannot be overstated. This agency has a primary, public responsibility to conduct thorough, yet timely, investigations. Thoroughness and timeliness are not competing claims. Indeed, your staff will find it easier to conduct high quality, thorough investigations and to properly resolve more cases when charges are handled promptly. In those instances where litigation is necessary, the likelihood of our success will increase when charges have been promptly investigated and witnesses' recollections have not dimmed. The main impediment to achieving our goal is an aging and sometimes unmanageably large inventory.

95-656 0 - 89 - 28

With the participation and cooperation of each field office, the Office of Program Operations, the Office of Performance Services, and my office are working together to develop and implement an approach which will ultimately provide for swift, thorough and current investigations of every new charge. However, as we work toward this end, the first step we must take is to reduce the large inventory that exists in some offices.

Accordingly, over the next six months each of you must bring your inventory down to the level necessary for efficient case management. This can and must be done without any sacrifice of quality. You must work closely with your entire staff and teach them how to manage existing case loads as they reduce aging inventory. To help accomplish this task, necessary overtime funds will be transferred into your office accounts.

Effective case development and management and a reduction in inventory and case processing time are my top priorities this year. Furthermore, in recognition of the importance, magnitude, and difficulty of the task at hand, I want to assure you that those offices that demonstrate extraordinary team efforts and achieve results will receive the Chairman's Organizational Performance Award. I intend to set aside a significant amount of funds for this purpose. Each staff member, regardless of position, will be eligible to share in the award if he or she has made a real contribution to the effort. I promise you that each recipient can expect to receive a substantial and meaningful monetary award.

We cannot be successful unless staff members work together as a team. Every manager, supervisor and employee must demonstrate creativity, flexibility, commitment and resourcefulness in support of our efforts. Successful employees will have to be persistent, extremely hard-working and dedicated to overcoming any temporary obstacles that could prevent this agency from reaching its goal of achieving the thorough and prompt investigation and appropriate disposition of each and every new charge.

I look forward to working closely with each of you on these initiatives.

cc: James Troy, Director, Office of Program Operations
John Schmelzer, Director, Field Management Programs - East
Jacquelyn Shelton, Director, Field Management Programs - West
Polly Mead, Director, Office of Performance Services
John Seal, Management Director
Andrew Fishel, Director, Financial and Resource Management Services

UNITED STATES GOVERNMENT

Memorandum

BIRMINGHAM DISTRICT OFFICE
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
2121 8TH AVE., NORTH, EIGHTH FLOOR
BIRMINGHAM, ALABAMA 35203-2307

TO : John Schmelzer, Director
Field Management East

DATE: January 14, 1988

In reply refer to:

FROM : George Frank Jordan
District Director GFJ

SUBJECT: Problems Associated With The Charge Data System Update

The purpose of this memorandum is to alert you to the Birmingham District Office's continuous difficulty in installing the CDSBASE UPDATE - 2.8.4. The Management Information Specialist, Iris Elom, attempted to install the update on January 4, 1987. Because of difficulties encountered with a defective diskette, the installation was unsuccessful. Additional diskettes were received on January 5, 1988; after these diskettes were installed the information on the database became unaligned which rendered it useless. Mrs. Elom called ISS and informed Omie Saunders of the problems and was informed that ISS was aware of the problems with the diskettes and that they were working on yet another diskette that would be express-mailed (DHL) that same day. Mrs. Elom received a call from Leo Sanchez at about 3:00 p.m. on January 5, 1987. He informed her that a new diskette would be express-mailed to the office that day. Two new diskettes were received on January 12, 1988, with instructions to install the four original diskettes along with the two new ones. Upon installing these diskettes, the same problem of unaligned data was experienced.

The Birmingham District Office's Charge Data System has been inoperable since Monday, January 4, 1988. This has caused a backlog of data entry, an inability to obtain status reports and has hampered Mrs. Elom in the production of monthly office workload reports.

Any assistance in this matter would be appreciated.

BUY U.S. SAVINGS BONDS REGULARLY ON THE PAYROLL SAVINGS PLAN

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

JAN 14 1988

MEMORANDUM

TO : District Directors
Area Directors
Local Directors

FROM : James H. Troy, Director
Office of Program Operations

Polly Mead, Director
Office of Performance Services

SUBJECT : Case Management Study

Attached is a report on agency case management practices resulting from a study conducted by the Office of Performance Services (OPS) staff member, Pat Ewing. Five field offices were reviewed in the FY 1987 study. Note that many effective techniques for managing the work of the agency were identified.

We believe that additional, equally effective practices are being used in other offices, and, in asking for your comments on the study, we are particularly interested in your input regarding case management practices you have found to be effective. Your insights will be valuable in agency efforts to deal with the issues and problems raised by the study.

We look forward to your comments and will appreciate your taking the time to provide us with your input by February 1. If you have any questions regarding the report or the exhibits, or if you wish to discuss the findings, please contact James Goldweber, OPS's Director of Performance Planning and Development, at 634-6103 or Pat Ewing at 634-7363.

Attachment

cc: Jacquelyn Shelton, Director
Field Management Program - West

John Schmelzer, Director
Field Management Program - East

EXECUTIVE SUMMARY

JAN 7 1988

Purpose

Perhaps John F. Kennedy best described the link between timeliness and quality results when he said, "Justice delayed is justice denied". At the time, over twenty-five years ago, Senator Kennedy was commenting on processing delays at another agency, but the principle behind his remark is applicable to EEOC's current situation: an increasing inventory of aging cases.

In recent years, EEOC has made notable gains in providing quality services, including more thorough investigations of all charges, more full remedies for victims of discrimination and increased legal enforcement of client rights. However, because the timeliness of investigations plays a critical role in providing quality service, we believe EEOC will not be able to gain widespread public respect or sustain necessary support for its mission until its services are made available in a more timely manner.

Public dissatisfaction with a delayed or prolonged investigative process is certainly understandable. If a charging party must wait a year or more for the Commission to make a determination and is, in the meantime, unemployed, suffering retaliation or still experiencing the effects of discriminatory employment practices, he/she will become frustrated with the system. Respondents, too, can be the victims of prolonged investigations as potential backwage liabilities grow and on-going interruptions to business activities become disruptive. Within the agency, an aged inventory creates numerous problems for offices and investigators, from coping with impatient charging parties and/or respondents to conducting investigations when witnesses are no longer available and evidence has grown stale.

This study of case management practices in five field offices was undertaken to identify techniques employed by EEOC managers that could achieve both timely and quality service to the public. It soon became apparent, however, that field managers shared an overriding concern about their ability to achieve and sustain acceptable performance levels in the face of a pending inventory increasing in size and age. The scope of the study was, therefore, expanded to consider the viability of specific case management strategies in the context of systemwide issues of caseload size, timely processing and quality work products. The study also identifies information gaps about the case management process that require further research and considers what steps the agency should take to ensure that both quality and timely case processing are achieved on a more consistent basis.

Background

Since its inception in 1965, EEOC has struggled with the demands of providing both quality and timely services while attempting to keep pace with increasing workloads. By 1977, case backlogs were over 100,000, and the agency shifted away from its traditional reliance on full investigations on the merits to a greater emphasis on rapid processing procedures and pre-determination settlements. Over a period of time, EEOC's credibility as a law enforcement body suffered.

Under Chairman Thomas' direction, the Commission has again focused its energy on conducting thorough administrative investigations and following through on every case to a just resolution. Progress has been made toward achieving this turnaround, but, at the same time, the pending inventory and case processing times have again begun to increase. This cycle of events has been a recurring one throughout EEOC's 22 year history and underlines and brings into focus again the central problem faced by agency case managers: how to conduct thorough investigations while producing quality work products in a timely manner.

Findings.

The study findings are discussed under the topic areas of caseload size, processing delays and quality, which were found to be the three issues of greatest concern among the managers who were interviewed. Although increasing caseload size was viewed by managers as the primary obstacle to improving overall agency performance, all three issues are interrelated and strategies identified as effective techniques for dealing with the issues have overlapping purposes and outcomes. For example, strategies implemented to control the size of investigators' caseloads had a threefold purpose - increased production, reduced investigator processing time and improved quality. Furthermore, some of the techniques had unexpected spillover benefits, as in one special emphasis project which targeted an increase in cause determinations but also resulted in significant reductions in processing times and served as an effective training mechanism.

Caseload Size

Caseload size is found to be a major determinant of processing time and impacts the ability of offices and individual investigators to perform at optimum levels. Although effective strategies have been implemented in some offices for controlling the size of individual investigators' caseloads, these strategies are seen as short-term solutions that alone cannot resolve the larger problems of office caseload size and increased processing time. Some specific strategies that appear to be effective in controlling individual caseload size follow:

* Officewide or unit "holding tanks" have been implemented to maintain investigators' caseloads at a manageable level.

* The holding tank strategy along with grouping new assignments at the beginning of each month has resulted in increased production.

Processing Delays

Processing delays are an impediment to providing quality services and to the achievement of agency and office goals. Investigations that take place several months after charges are filed have built-in obstacles that cause frustration internally for offices and investigators and externally for the public that is served. Managers attribute delays to a number of sources including indecisiveness on the part of investigators, the large number of non-merit charges clogging the system, and lost time in the review and rework process due, in part, to inadequate first-line supervisory guidance.

Investigative delays also compound one of the most pervasive problems offices must cope with: aged inventory. Managers agree that excessively delayed or prolonged investigations diminish quality of service to the public and make the Commission's task more difficult. Therefore, all offices attempt to limit the number of 300 day old cases in their inventories, both to meet agency standards and to enhance services to the public. Techniques for controlling delays in the process include the following:

* Intake screening and fast-track processing of certain cases have proved useful in reducing the number of non-merit charges in the system.

* Early assignment of and emphasis on closure dates shows a positive correlation with reduced average processing times in certain offices/units.

* Several approaches to management team monitoring have reduced processing delays.

* Some offices provide investigators/reviewers with guidelines or checklists to reduce delays associated with "over-investigating".

Quality

Quality is a priority objective for all managers, and strategies aimed at controlling individual caseload size and/or processing time have a corollary purpose of quality improvement. Most quality improvement projects involve manager/employer interaction. A related concern of field office managers was the competence and skill level of first-line supervisors who are seen as the key to effective, quality performance. The following strategies specifically target quality enhancement:

* Special projects have been initiated in some offices to encourage more on-site investigations.

* Techniques that involve management team/investigator interaction appear to be effective for supporting the investigation of potential cause cases.

* Some offices have been successful in motivating employees with monetary incentives and non-monetary recognition.

* Standardization of some EEOC-required documents such as IM's and LOD's is believed to enhance quality and to assist managers in reviewing final products.

Conclusions and Recommendations

In spite of all the gains made in recent years, the agency is still not meeting public demand for "swift justice".* Despite the efforts of headquarters and field offices, agencywide average case processing time in FY 1987 was 291 days, an 18.8% increase over the FY 1986 average of 245 days. Swift justice requires that the agency open investigations promptly and proceed through the investigative stages and review process without unnecessary delays. Therefore, EEOC's goal must be to conduct investigations and reach determinations in the shortest possible time without compromising quality.

At present, the agency's inventory of aged cases is growing again, inhibiting the agency from meeting both timeliness and quality requirements. The study findings indicate that offices use a variety of identified practices and strategies to cope with burdensome caseloads (averaging approximately 1300 cases per office at the end of the fourth quarter). These efforts must be continued, and methods for sharing effective case management techniques among offices developed. In addition, agencywide initiatives such as the headquarters oversight and technical assistance support provided by the Office of Program Operations, improved computerized tracking systems by Information Systems Services, the Quality Assurance program, enhanced training support for field supervisors and staff and employee incentive programs should all be strengthened and continued. However, as long as the caseload per investigator remains high and office inventories include a high percentage of older cases, only incremental gains can be expected from these kinds of programs and problem-specific strategies.

We believe EEOC will continue to struggle with cyclical problems in controlling its workload unless a systematic approach is taken to resolve these case management issues permanently. In order to ensure that maximum short- and long-term improvements are realized from the study, we recommend an integrated plan of action be developed. The action plan should include immediate steps to improve field performance indicators, as well as development of a redesigned system that will ensure long-term improvements. In addition, we believe an equally important component of the agency's plan should be a consensus building strategy to gain the support of agency managers, constituent groups and Members of Congress. By constructing a strategy around these three components - immediate improvements, system redesign and consensus building - we believe the agency can, within three years, achieve the goal of providing swift justice to the public.

* Houston District Office description of EEOC's mission.

EXECUTIVE SUMMARY

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CASE MANAGEMENT STUDY

INTRODUCTION

In FY 1986, EEOC staff resolved more than 63,000 charges and developed enough high quality litigation recommendations so that the largest number of lawsuits in the Commission's history were filed, 526. Remedies were obtained for 25,000 people with monetary benefits of over $53 million. These achievements were hard won and were made against the backdrop of an on-going struggle between demands for quality and timeliness and inventories increasing in size and age. The relationship between quality and timeliness has been a critical one during the course of EEOC's 22-year history. Because EEOC's ability to provide quality services is so firmly linked to its ability to conduct timely investigations of charges and complaints filed, the quality-timeliness issue continues to be central to effective agency case management.

The linkage between quality and timeliness is more clearly evident when related in terms of personal experience. Excerpts from one charging party's letter of complaint to Congress expresses the frustrations experienced by the public when extended processing delays occur. The charge was originally filed in March 1985, and the charging party's letter, dated July 25, 1987, begins by stating, "I am writing to you as a very upset and angry citizen. I'm wondering how many letters you receive on complaints about the EEOC."

After explaining that she understood from the beginning that there would be a delay of approximately six months before her case was opened, she stated she was prepared for a waiting period of, at the most, eighteen months. Then, after describing delays caused by the employer and by EEOC, she goes on to say,

> I have given them (EEOC) all the information at their request at least twice but they still haven't put it together. The case has become so deteriorated. The contacts and sources they had to work with two years ago may not even be available nor the details which were quite evident then, (may not) seem as important now...
>
> If the EEOC is so understaffed that they can't handle the caseload then something should be done about it. The public should not be misled (or encouraged) to file (a charge) if the EEOC can't follow through with it.

Other charging parties experience similar frustration and anger with the system when the agency fails to open and complete investigations within a "reasonable period of time". A reasonable period of 180 days is implicit in Title VII, but at the end of the third quarter, FY 1987, only seven of the forty-eight EEOC offices were reporting average processing times at or below 180 days. Some private law firms, that have given up on EEOC's ability to meet this 180-day timeframe, now advise their clients to fulfill statutory requirements by simply filing a charge, waiting out the 180-day period, requesting a right to sue, then filing a private suit in Federal court.

Respondents are also affected by delayed or prolonged investigations. Back-wage liabilities continue to grow during the administrative process and what might have been a minimal amount sixty to ninety days after a charge is filed can significantly increase if the investigation is not concluded for a year or more. Also, when an investigation is prolonged, particularly if the case is transferred between two or more investigators during the process, additional requests for data may seem duplicative and become disruptive to the respondent's business.

In addition to the negative effect of processing delays on the public, the internal impact on EEOC staff is also a concern. Investigators are equally frustrated by the difficulties of investigating cases that are "stale" by the time they are opened. In these instances, investigators face the difficult task of locating witnesses and, upon locating them, probing for information that has grown cold in the witnesses' memories. Over half of the agency's offices now have pending inventories of ten months or more which means that cases are sometimes 300 days old by the time the investigation actually begins. In addition, although charges are served promptly and preliminary data is usually gathered within a few weeks after cases are opened, employers and/or their law firms sometimes object to investigative actions that continue for 10 months or more and feel justified in delaying their responses. All of these obstacles must be overcome by the investigator while, at the same time, dealing with charging parties and employers who are equally and understandably frustrated.

Under Chairman Thomas' direction, the agency has been placing more and more emphasis in recent years on the quality and thoroughness of administrative investigations. Several specific steps have been taken at the policy level to ensure a refocusing of agency efforts away from rapid processing and no-fault settlements to full investigations, determinations on the merits and "make whole" remedy for victims of discrimination. Some of the major policies issued to achieve this turnaround in the agency's approach to the administrative process include the Enforcement Policy, the Remedies Policy, the Investigative Compliance Policy and the Appeals Policy.

Along with the policy issuances, significant operational changes have been implemented including extensive revisions to Volume I of the Compliance Manual, development and issuance of Volume II interpretive guidance, establishment of Quality Assurance projects in all field offices, refocusing of field performance plans on the quality of work products, reorganization of field program activities under the generalist concept, increasing emphasis on investigative skills in the agency's training program, and installation of the new Charge Data System with greatly enhanced computer support.

History

All of these actions have enabled the agency to make significant strides toward its goal of conducting thorough investigations on the merits of all charges and complaints that are filed. The new emphases have also been accompanied by a growing pending inventory and increasing processing delays. This is not an unexpected development, as the agency has historically struggled with the demands of quality and timeliness while coping with inequities in the ratio of case receipts to staff. Some of the recurring problems associated with caseload size, timely processing and quality performance are highlighted in the following overview of the agency's history:

1965-66 Before EEOC established its first four field offices in 1966, complaints began to come in at a rate far in excess of expectations. With a staff of 190 in FY 1966, 2000 charges annually were anticipated, but approximately 10,000 charges were received during the second year of operation.

1967-70 During 1967, a number of steps were taken to reduce the workload; e.g., some functions were delegated to the field from headquarters, training was provided and legal interns were brought in to draft Commission decisions.

Toward the end of this period, new charges were put aside as field staff targeted immediate settlement of backlog cases. As a consequence, few of the newer charges were completed and another backlog began to build. Charge intake continued to increase as EEOC's jurisdiction expanded and as the public became more aware of Title VII protections. By the end of 1969, the average time required to complete an investigation had reached 16 months.

Pre-decision settlement procedures were implemented in 1970 to improve productivity, and the ten regional offices were supplemented by the addition of district offices.

1972-76 The 1972 Equal Employment Opportunity Act amended Title VII and brought additional responsibilities and litigation authority to the Commission. Regional litigation centers were established in 1972 separate from the compliance offices.

The first compliance manual was issued in 1973 bringing some consistency to the agency's investigative procedures. Case management reforms introduced in the manual called for charge prioritization rather than investigation on a first-come, first-serve basis.

Staffing difficulties created by a high turnover rate made it difficult to cope with an ever-increasing caseload. In January 1974, there was a 20% vacancy rate among investigators and conciliators and a 35% vacancy rate in the litigation centers.

An audit of EEOC, "EEOC Has Made Limited Progress in Eliminating Employment Discrimination", was issued by the General Accounting Office (GAO) in 1976. One of the problems addressed in the audit was timeliness and its impact on quality services. According to the audit, from 1969 to 1975, EEOC charge receipts increased from 12,148 to 71,023, while total staffing increased from 579 to 2,384 with 1,133 assigned to district offices as of June 30, 1975. As of the same date, GAO reported the agency had an unverified backlog of 126,340 charges, unverified because of inadequate information systems. GAO sampled charges resolved in FY 1975 and concluded that it took an agencywide average of 22 months to complete the administrative process and, furthermore, that some charges filed as early as 1968 were still being processed.

GAO was also critical of EEOC's intake procedures and attributed the high percentage of no jurisdiction and other administrative closures in 1975 (over 59%) to unskilled clerical staff taking in flawed charges. Over 75,000 charges were received by the Commission in 1976.

1977-81 In 1977, the agency was reorganized and significant procedural changes were implemented. The regional offices and litigation centers were eliminated, consolidating compliance and legal functions in the district offices. Under the Presidential Reorganization of 1978, EEOC's authority was greatly expanded to include Title VII Federal sector, ADEA and Equal Pay Act enforcement and Federal interagency coordination.

In April 1977, the backlog had reached approximately 130,000 cases, and that year new intake procedures, rapid charge and backlog processing systems were implemented in model offices. Intensive training in new intake procedures and in rapid and backlog processing was given.

During the first year of operation, the three model offices resolved from 68% to 73% of all new charges received, and one of the offices managed to eliminate its backlog of charges during the same period. In addition, the average processing time dropped from two years to sixty-five days. The new systems were implemented agencywide, and for the first time in its history, in FY 1979, the Commission closed more charges than it received. The trend continued and by the end of FY 1981, the pending workload had been reduced to less than 17,000 charges.

By reducing the backlog, the agency achieved one of the major goals of the 1978 reorganization, but other areas of performance became the subjects of sharp criticism. A 1982 GAO audit strongly criticized the agency's settlement goals which, according to GAO, encouraged staff to settle charges inappropriately including some cases where larger settlement might have been justified or, on the other hand, some cases which were non-meritorious and should have been dismissed or determined "no cause". The GAO felt this undermined the Commission's neutrality in the processing of charges.

1982-87 Under Chairman Thomas' direction in FY 1982, a study group reviewed field operations and concluded, among other things, that the emphasis on rapid processing had adversely affected the thoroughness and quality of investigations. In December 1983, the Commission passed a resolution that eliminated the requirement that all new charges undergo rapid processing and allowed field offices to begin the shift to more extended investigations. The shift in emphasis to thorough investigations continued in subsequent years with the issuance of the Enforcement, Remedies, Appeals and Investigative Compliance Policies and culminated in the FY 1987 field reorganization under which investigators conduct full investigations on the merits of all charges from intake through resolution.

Current EEOC again faces a convergence of trends and events that challenge its ability to conduct investigations that are

both timely and of high quality. These include a decline in the availability of productive staff while annual receipts remain high, coupled with the Commission's mandate for full investigations instead of rapid resolutions through no fault settlements.

The following chart shows an overall increase from FY 1982 through FY 1987 in the number of charge receipts to process as well as a growing pending inventory.

Fiscal Year	Receipts to Process	Closures	Pending End of Year
1982	50,935	67,052	33,417
1983	66,461	74,441	31,538
1984	66,251	55,034	39,893
1985	67,119	62,494	44,833
1986	65,783	62,203	47,735
1987	62,074	53,482	61,686

While charge receipts have apparently stabilized since FY 1983, there has been a decrease of 7.9% in staff available over the most recent three-year period when staff available figures were recorded, FY 1985 through FY 1987. According to budget documents, Full-Time Equivalent (FTE) positions in the field decreased by 27.8% from FY 1982 to FY 1986, and FY 1987 field office data reflect a continuation of these trends.

The scope of the problem is also seen in the aging of the pending inventory. Three hundred day old charges, which were 2.3% of pending inventory in FY 1983, were 24.6% at the end of FY 1987. Average case processing times have also increased, from 186 days in FY 1982 to 291 days in FY 1987. A growing and aging inventory negatively impacts the Commission's ability to provide quality services and makes the investigative task more difficult and time consuming. These statistics demonstrate the dimensions of the challenge to effective case management confronted by agency managers as the new fiscal year begins.

Purpose

In support of efforts to deal with these challenges and related case management concerns, Organizational Performance Services (OPS) recently conducted this study of EEOC case management systems. The study examined major case management components and identified practices and techniques that have been successful in controlling caseloads relative to achieving office and agency goals. Case management is defined broadly in the study as a system for directing the processing of charges and complaints from intake through completion in an orderly flow so that quality and timely case resolutions result. Case management systems encompass caseload tracking and monitoring as well as workload planning, case assignment practices and management/employee interactions.

Study Methodology

On-site visits were made during April and May to the Charlotte, Houston, Phoenix and Cleveland District Offices and to the Albuquerque Area Office, locations recommended by the Program Director as offices with good case tracking systems. Interviews were conducted with senior level managers, line supervisors and selected staff members. In all, five directors, three regional attorneys, two deputy directors, six enforcement managers, nineteen first-line supervisors, four investigators and three administrative staff members were interviewed. Information was solicited from each level of management regarding case tracking systems (both officewide and individual unit systems), other tracking/recordkeeping systems (e.g., administrative), management/employee interaction controls and planning and problem-solving techniques employed at each level of management. In addition, each interview included a segment on the obstacles inherent in EEOC's investigative process, as well as recommended solutions.

On-site visits were also made to the Washington, D.C. headquarters office and the Houston, New York and Baltimore field offices of the National Labor Relations Board (NLRB) to identify NLRB case management techniques that could be applied successfully to EEOC. The NLRB system has been in place for over 25 years and has been widely recognized as an exemplary model of an effective case management system.

The primary source for historical data was "A History of the Equal Employment Opportunity Commission, 1965 - 1984," issued by the Office of Program Research. Additional information was obtained in reviewing General Accounting Office reports concerning audits of the agency's program activities.

PART A. CASELOAD SIZE

Caseload size is central to all other issues and concerns raised by this review. Because caseload size is a significant determinant of timely processing, and timely processing is, in turn, a key ingredient in conducting quality investigations, most managers and supervisors who were interviewed believe the agency's current pending inventory is the single greatest obstacle to achieving office and agency goals. At the end of the third quarter, the average pending inventory in more than half of the agency's offices was at or above the ten month level, and most managers consider this level to be burdensome and counterproductive. (or 70 cases)

Investigators, some with caseloads in excess of 60 cases, echo this view. One employee described the impact of excessive caseloads on an investigator's ability to carry out training techniques learned at the Dallas training conference, as follows:

> The effectiveness of many investigators is at an all-time low, simply because of the impossibility of handling increased responsibility on each case without a corresponding decrease in caseload. The public is also getting very tired of waiting for service, and the timeliness with which we serve the public is only going to get increasingly unacceptable to them.

It is obvious that an investigator can complete only a finite number of cases per month, and if new assignments continually exceed the investigator's ability to close cases, even the best of time management practices will eventually break down, and quality, production and average processing time will suffer.

Two examples are shown below to illustrate the difficulties posed by an excessively large caseload. The first example shows actions that might be pending in a workload of 30 cases at a given point in time, and the second example shows actions that might be pending in a 60-case workload. In both instances, we have assumed the investigator is able to complete seven cases per month.

Example 1 (30 Cases):

Opening Stage:	Middle Stage:	Final Stage:
7 Cases	16 Cases	7 Cases
Intake/Affidavit Planning and Scheduling	Data Gathering/Interviews Analysis/Research	Closing Interviews/Write-up

Example 2 (60 Cases):

Opening Stage:	Middle Stage:	Final Stage:
9 Cases	44 Cases	7 Cases
Intake/Affidavit Planning and Scheduling	Data Gathering/Interviews Analysis/Research	Closing Interviews/Write-up

Although cases progress through the process at different paces, some closing early on and some remaining in the middle or major stage of the investigation longer than expected, the investigator in the first example should be able to turn the workload over in approximately four months, possibly less. On the other hand, the investigator in the second example loses ground every month and will, under the best of circumstances, turn the workload over in approximately nine months. This kind of scenario makes it easier to understand the frustration of the investigator quoted previously, who goes on to say, "We (EEOC employees) can only withstand so much pressure" (from the employer and the public).

In order to reduce this kind of frustration and to provide staff with a climate that is conducive to quality and productivity, some managers control the number of cases assigned to individual investigators at any one time. The advantages to investigators of controlling the size of their caseloads are obvious. The stress level of the job is reduced with a manageable caseload, and performance plan standards are achievable with a four- to six-month caseload. However, holding cases back to control investigator caseloads does not stop cases from aging and will not, in the short term, allow offices with large pending inventories to meet office performance standards of timeliness.

The following chart appears to support an assumed correlation between caseload size and timeliness indicators. As illustrated, an average of 25 field offices had caseloads of less than 100 cases per staff available during FY 1987. In the remaining 23 offices, individual caseloads ranged from 100 to 400 cases. While 38% of the offices with smaller caseloads had average processing times of 210 days (the maximum number of days allowed to achieve a Fully Successful performance level), only 14% of the offices with larger caseloads achieved the Fully Successful level.

	Number of Offices	Workload per Staff Available	Average Processing Time of Less than 210 Days	300 Day Old Count of 10% or Less
1st Qtr.	27 with -	40 to 99 cases	14 offices (52%)	14 offices (54%)
	21 with -	over 100 cases	4 offices (24%)	3 offices (14%)
2nd Qtr.	26 with -	40 to 99 cases	10 offices (39%)	12 offices (46%)
	22 with -	over 100 cases	2 offices (9%)	4 offices (18%)
3rd Qtr.	24 with -	40 to 99 cases	7 offices (30%)	8 offices (35%)
	24 with -	over 100 cases	2 offices (8%)	2 offices (4%)
4th Qtr.	21 with -	40 to 99 cases	6 offices (29%)	10 offices (48%)
	27 with -	over 100 cases	4 offices (15%)	8 offices (30%)
Avg.	25 with -	40 to 99 cases	9 offices (38%)	11 offices (46%)
	23 with -	over 100 cases	3 offices (14%)	4 offices (17%)

Similarly, the statistics also show a difference in the percentage of 300 day old cases in pending inventories. Forty-six percent of the offices with caseloads of less than 100 per staff available had 10% or less of the pending inventory in the 300-day-old category while only 17% of offices with caseloads over 100 per staff available had less than 10% of the inventories in the 300 day old category. This apparent correlation between office caseload size and timeliness indicators shows the long-term remedy for offices lies in reducing the size of the pending inventory; however, there are also short term benefits for offices in controlling the size of investigator caseloads. The advantages to offices include higher employee morale, the probability of improved investigative quality and a possibility of increased productivity. Some techniques related to controlling individual caseloads that have been implemented in the offices reviewed are summarized below.

Office Techniques:

1. Unit/Office Holding Tank

Most of the offices reviewed have in place some method of holding back new charges to control the size of investigators' caseloads. Even where there was no officewide "holding tank" system, we found that many individual supervisors held cases after unit assignment until their employees' caseloads dropped to an "acceptable" level. In all offices/units where the holding tank approach was practiced, we found that incoming charges were screened by one or more managers to ensure the immediate assignment of priority cases (e.g., ADEA, EPA, sex harassment, potential TRO's).

Without exception, supervisors who were interviewed had an ideal caseload in mind, one which would allow investigators to conduct quality investigations while completing cases in a timely manner. However, the ideal number of cases varied from 20 to 50* and was apparently an intuitive number, based on experience over time, because none of the offices had conducted controlled experiments with varying size caseloads. One office is now in the process of analyzing unit caseloads over a three year period to determine the relationship between the size (as well as the complexity) of caseloads and productivity. Office records will provide data for a study of the bases and issues of all cases that were processed by each unit for comparison to the units' productivity rates.

2. Grouping Assignments

In one area office supervisors accommodate a manageable work flow by maintaining the caseload of each investigator at 40 cases. In addition, cases are assigned in a batch during the first week of each month to bring the individual caseload up to 40 cases, and end dates are set on assignment for the end of the fourth month following. By setting closure dates for the last day of each month, the supervisor gives investigators the freedom to schedule

* These estimates were given for a mix of simple and complex cases.

closures throughout the month as circumstances permit. Given the mix of case complexities, this is not an automatic process. Within any given month, an investigator might close as many as 12 cases with varying due dates. In that event, the supervisor would assign 12 new cases to the investigator during the first week of the next month to bring the caseload back up to 40. (Office Case Management System, Exhibit 1.)

At the time of our review, grouping assignments had been a practice in this office for approximately 18 months and one supervisor was able to report that the investigators in his unit had increased their production by at least two closures per month. That is, prior to implementing the system, investigators had been averaging five to six closures per month; immediately following implementation, the averages rose dramatically to a high of 13 closures per month and have now leveled off at eight to nine closures per month. The supervisor attributed the high number of closures at the beginning of the project to investigators "skimming" the simpler cases at first, and, also, to investigators having cases on hand at the beginning with sufficient data for closure.

PART B: PROCESSING DELAYS

Almost all supervisors and managers expressed concern about certain cases staying in the system too long. Only one office had researched the subject to identify where delays most often occur in the investigative process. This study was done by an office director in conjunction with the office's normal quality review process and addressed unexplained delays noted in case logs between stages of the investigation. Only delays within the investigator's control were recorded by the director, i.e., uncooperative Charging Party (CP) or recalcitrant Respondent (R) delays were recorded only if the investigator had failed to take all necessary steps to obtain CP/R data in a timely manner. More than a year was covered by the review, and memoranda highlighting the deficiencies were written to the unit supervisors by the director. Based on copies of the memoranda, a compilation of the results is shown below. (See Exhibit 2 for a detailed analysis of director's reviews.)

Number of Delays	(%)	Where Delays Occurred
25	44.6	Between completion of the investigation and CP/R Pre-Determination Interview (PDI)
15	26.7	Between completion of the investigation (including PDI's) and closure
9	16.1	During the investigative process (on-site, mail-in data gathering, witness interviews, analysis)
7	12.5	Investigator's processing errors: 2 Failure to follow instructions 3 Failure to identify dismissals 1 No followup of legal review time 1 Other unidentified time lapse

The director estimated delays of 14 to 278 days in 33 of the recorded instances for an average delay of 114 days. It is important to note that the area office where these reviews took place has the shortest average processing time of any of the offices reviewed, and the number of delays recorded were found in only 33 cases, not a significant percentage of the total cases closed during the review period. This could be due to the office's emphasis on tracking closure dates and to the director's close attention to and action on processing delays.

It is also interesting that none of the recorded delays were identified as occurring during the opening stages of the investigation: CP Contact, IP and/or RFI. In fact, over 70% of the delays occurred after the investigation had been completed (and if delays between investigative steps are added, over 85% of the delays can be accounted for). These results indicate delay on the part of investigators, for whatever reason, to take the final steps necessary to close a case. Since these kinds of delays were found in an office with relatively short processing times and close attention by top management, it is likely that other offices with different management emphases and with a history of longer processing times would also find the same kinds of delays in, perhaps, a greater percentage of cases.

Some managers attributed processing delays to a lack of decisiveness on the part of the investigators, others to investigators not knowing when to stop investigating. Another frequent criticism was that once a charge got in the system, there was a tendency to give it "the full treatment" regardless of merit. Also, although the offices reviewed had good compliance-legal relations, delays incurred in legal reviews of proposed cause decisions was an issue raised by top-level compliance and legal managers.

Processing delays are also related to the number of review levels and the amount of review time expended. Most district offices have five levels of review for proposed cause determinations: first-line supervisors, enforcement managers, deputy directors, the legal department and the director. We found that other-than-cause determinations are usually more carefully reviewed only at the first three levels and, furthermore, that the amount of time spent reviewing non-cause determinations is not significant (seven to fourteen days) unless management lacks confidence in one or more of the first-line supervisors. The competence level of individual investigators is, in turn, a major determinant of the amount of time first-line supervisors spend in reviewing cases. Some managers predicted the Determinations Review Program will increase the amount of time managers spend reviewing no-cause determinations.

At any rate, review of closed cases is one of the most time consuming tasks managers have to perform and takes away valuable management time from direct, proactive involvement during the investigative process. Enforcement managers, for example, estimated they spend from 25% to 80% of their time reviewing closed cases, and one deputy estimated 60% of his time was devoted to case review. We found in most instances that some supervisors and most managers are seeing a case for the first time when the closed file is submitted for review, particularly other-than-cause determinations, so it is understandable that the job is time-consuming. Although none of the offices kept records of the time spent in the review process, the following are estimates of the turnaround time for a reviewing a cause case:

First-Line Supervisor	1 to 3 workdays
Enforcement Manager	3 to 5 workdays
Deputy Director	3 to 5 workdays
Attorney	21 to 30 workdays*
Director	1 to 3 workdays
Total	29 to 46 workdays

These times vary greatly depending on office workload, and since not all managers were willing to estimate the average time spent, the figures shown above represent an aggregate of estimates from more than one office.

Although separate records were not kept on the amount of time expended in rework and additional investigation, some supervisors agreed that a high percentage of returned cases created a problem in managing the work flow of their units but attributed the problem to disagreements with managers and/or attorneys on interpretations of the law or legal requirements for "trial ready" case files. In describing the problem, one supervisor said by the time a cause case is returned for additional data, the investigator, who may have 50 to 60 other cases on hand, has difficulty getting back into the case to schedule the additional steps required, and rework time can, therefore, be excessive.

Some of the offices are piloting and/or implementing procedures for coping with processing delays. These generally fall into two categories: those aimed at directing and facilitating the investigative process itself and those focused on better monitoring of the investigative process.

Office Techniques:

Directing and Facilitating the Investigation

1. Investigative Guidelines

One office has approached the problem of "over investigating" by attempting to instill in investigators the idea that once it is clear the evidence will not support a cause finding, a no cause finding should be drafted. To achieve a turnaround in attitude from one of conducting exhaustive investigations (the more paper, the better) to one of knowing when the investigation is complete, the office developed and presented to all supervisors and investigators a video training course on the theories of discrimination. Along with the video, a course book was developed which includes a check-off list of questions that must be answered to reach a cause determination under each theory of discrimination. The check list is based on Volume II Compliance Manual standards of proof, and investigators are encouraged to use these guides to plan and conduct investigations.

* This is the norm targeted by most legal units; however, many cases exceed this norm, and supervisors cited examples of six

Offices with Quality Assurance programs in place utilize standards of quality for selected work products. In addition, some other offices have developed quality check-off lists as guides to staff and managers. In one instance, three separate lists are used: one in intake, one as an investigative guide, and one as a quality review guide for closed cases. Managers believe these kinds of guidelines also keep investigators focused on a logical progression throughout the investigation and are convinced the use of the check lists improves the level of quality. (See Exhibit 3 for copies of sample check lists.)

2. Management Teams

* Joint-Review Committee

One office routinely provides the opportunity for any investigator and/or supervisor to bring cause determinations up for discussion before a Joint Review Committee (JRC) consisting of a supervisory trial attorney, the investigator and supervisor and, sometimes, an enforcement manager. The case is reviewed by the attorney prior to the meeting (usually within a few days of the request). At the meeting, the investigator or supervisor presents the case and feedback is provided by the participants. If the JRC concurs with the proposed determination, it is submitted to the Regional Attorney and District Director for their review. In any event, these meetings often take place within two weeks of the request, and, with all reviewers present, the result is usually a reduction in the review time required for the particular case. However, this office has a heavy litigation workload, and the turnaround time for the Regional Attorney's review is sometimes lengthy.

* Top Management Committee

One office with an active Top Management Committee (TMC) uses the TMC as a mechanism for consideration of proposed cause determinations, aged cases and cases involving unique or unusual issues and problems. In fact, the TMC meets with investigators and/or supervisors on request, usually several times a month, and through this process becomes familiar with the facts in a variety of cases. Review time for these particular cases is greatly reduced, and rework time is virtually eliminated.

3. Intake Screening

One office, which has an active Quality Assurance (QA) program, decided as one of its FY 1986 QA projects, to do a better job of counseling potential CP's in order to reduce the number of non-merit charges entering the pipeline. The purpose of this project is to prevent processing delays by screening out non-merit charges that might otherwise clog the system. Rotation of intake duty by unit had already begun in this office, and, therefore, the office had assurance that counseling by experienced investigators would be appropriate, and only non-merit allegations would be screened out. The office has, of course, continued to take charges when potential CP's insist on filing. As a result of this project, the office was able to reduce receipts to process by 8.9% in FY 1986, based on approximately the same number of inquiries as received in FY 1985. Not only has this reduced the overall office workload, but also the system is not clogged with as many obviously non-merit charges.

In discussing the problem of non-merit charges in the system with other management teams, we found some disagreement with this approach. Some managers and supervisors believed it inappropriate for EEOC to give the appearance of discouraging parties from filing, that the Commission has an obligation to consider all allegations equally. Some interviewees also believed that reducing the number of office receipts would negatively impact future staffing and funding. However, most managers were of the opinion that EEOC must begin to exercise a greater degree of professional discretion in advising potential charging parties.

4. Early Resolution

A few offices have taken other steps to proactively identify those charges that appear to have little or no merit and to designate those charges for fast-track or early resolution processing. This process is monitored by management and designations are usually not made until a position statement from the respondent (R) has been received. We found that most offices request the

position statement when a charge is served. If the R's statement gives a non-discriminatory reason for the alleged adverse action(s), and, more surely, if documentary evidence and/or witness statements to substantiate the statement are provided, then the charge is designated by management for quick turnaround and assigned to an investigator. The investigator is instructed to take immediate steps to examine R's statement for pretext and to close the case as a no cause determination if R's non-discriminatory reason is verified. Fast-track charges can also include apparent lack of jurisdiction, failure of the prima facie case, etc.

One office reported processing 131 charges in an average of 61 days per charge during a six-month test period of its early resolution program. Offices using this kind of fast-track investigative approach generally do not attempt to screen out non-merit allegations at intake. This, then, could be viewed as another approach to eliminating non-merit charges from the system. However, this method also provides a means for eliminating those charges that appear on the face to be valid but are not, either because the CP failed to understand the significance of events leading to the adverse action or was not properly counseled by the R or, perhaps, simply misled the intake counselor.

Top management in offices where this kind of fast-track procedure is used emphasized the importance of their own involvement in designating charges for early resolution and in carefully monitoring the followup steps.

Monitoring the Investigation

Offices have also developed monitoring procedures aimed at reducing processing delays, and all of the offices included in the review have made good use of automated recordkeeping systems. Top-level managers have come to depend on the accuracy and availability of the variety of reports that can be generated from the data base. Deputy directors and enforcement managers in particular use these reports to control the balance of unit caseloads, to identify potential unit or individual problem situations and to monitor priority issues and problems such as 300 day old cases and other cases targeted for special handling. Some of the Charge Data System (CDS) report formats designed by the offices' Management Information Specialists are impressive and examples can be found at Exhibit 4.

In addition to the ADP reports used for officewide monitoring, top-level managers also keep manual records, by supervisor, of quality factors. These records usually consist of copies of deficient work products, copies of memoranda detailing quality problems and log notations regarding files returned for rework or further investigation. This feedback on quality factors is passed along to investigators as supervisors return the cases for whatever additional work or correction is required. Only one manager who was interviewed reported having a computerized tracking system for monitoring turnaround dates on rework assignments.

Directors believe that as supervisors gain more confidence in ADP records, recordkeeping will take less time away from other supervisory duties. However, most first-line supervisors still rely heavily on manual recordkeeping to ensure accuracy. Although they are beginning to phase out some of the duplicative records they have kept in the past, almost all still depend on their manual inventory of unit charges as their basic record and check ADP reports against this listing. In some offices where CDS is fully operational, it has meant the end of the time consuming task of manually calculating the quarterly 396 summaries, but some supervisors estimated that as much as 25% to 35% of their time was still devoted to manual recordkeeping. We found that most supervisors keep three to four log or card systems in addition to the basic unit inventory listing. The additional records are generally maintained as tickler systems for monitoring investigative due dates and priority cases, such as aging cases in the inventory. Examples of systems developed by individual supervisors can be found at Exhibit 5.

Office Techniques:

Micro- and Macro-Monitoring

There were two basic approaches in the offices reviewed for monitoring the investigative process. Some managers and supervisors take the micro-monitoring approach by carefully tracking interim steps of the investigation. Others use a macro-monitoring approach and focus more closely on case development and completion. In all of the offices reviewed, managers were asked about the establishment and tracking of due dates: when dates were established; what investigative steps were tracked; how due dates were

monitored and how often variances were granted. Only one office had a districtwide system where all supervisors were required to track interim due dates. In other offices, first-line supervisors were responsible for setting and controlling target dates, and the approaches varied among offices and among unit supervisors within offices. The comparative benefits of micro- and macro-monitoring of due dates are discussed in the following summaries:

1. Targeting Interim Due Dates

One office has designed and implemented an ADP system for detailed case management that monitors due dates for five investigative functions: (1) CP Contact, (2) IP, (3) RFI, (4) Field Visit (which includes all data gathering and analysis) and (5) Investigator Memo/Letter of Determination. Investigators are expected to complete ten of these functions per week in any combination. This has proved to be a useful instrument for planning work in advance and for checking off work as it is completed. However, the system also requires that supervisors and investigators keep manual records of variances from established dates, and investigators are additionally required to submit weekly updates for input to the system on interim and final completion dates. If this recordkeeping were to take only 15 minutes per week per investigator, it would mean that approximately 250 total hours of productive time per year would be devoted to recordkeeping by the office's investigators.

The usefulness of micro-monitoring as a time management and tracking device can be offset if the investment of productive time in recordkeeping is excessive. Another question is also raised by systems like this; that is, do parts or sub-parts of an investigation that are equally targeted by managers assume equal value in the eyes of subordinate personnel? If, for example, as in the system described above where one telephone call to a CP "counts" the same as completing a case, the system's requirements would seem to influence an investigator's time management decisions. It is much easier and takes less of an investigator's time to contact a CP, for example, than to write up a completed case. Given the press of time and the need to meet the ten function per week quota, an investigator might be inclined to apply him/herself to the beginning steps of an investigation rather than to weighing the evidence, reaching a conclusion and/or writing the closing documents.

2. Targeting Closure Dates

There is no doubt that computer reports provide both supervisors and investigators with improved case and time management tools, but the more due dates a supervisor sets for monitoring interim investigative steps, the more time both the supervisor and the investigator must spend keeping records. Consequently, the less time there is for supervising the content of casework and conducting the investigation.

First- through fourth-quarter FY 1987 performance data reported by the offices reviewed reflects an overall shorter average processing time in those offices where supervisors set closure dates at the time cases are first assigned and emphasize development of the entire case rather than incremental steps. The following chart of first- and third-quarter statistics illustrates this correlation:

Office/Closure Dates /on Assignment*	Workload per Staff Available (3rd Qtr. Only)	Average Days to Process 1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.
A/Officewide	(64.6)	136	160	139	221
B/All units but one	(71.0)	177	203	192	316
C/Half of the units	(89.7)	232	250	278	357
D/Only fast-track cases	(64.7)	205	220	305	312
E/Only fast-track cases	(63.1)	218	280	349	410

* Based on supervisors who were interviewed. Not all supervisors in the five offices were interviewed.

As indicated, supervisors in Office A consistently set closure dates on assignment, and variances from established due dates are allowed only for events outside the investigator's control; in Office B, all but one of the supervisors interviewed followed the practice of early targeting of end dates. In offices and units using the macro-monitoring approach, it was understood that the opening steps should be accomplished within 14 to 21 days, but in most instances these targets were monitored only during periodic case reviews or as cases were closed. In the remaining offices, half or more of the supervisors interviewed did not set closure dates until well into the investigative process; however, due dates for beginning steps such as Charging Party (CP) Contact, Investigative Plan (IP) and Request for Information (RFI) were carefully monitored.

Supervisors who used the macro-monitoring approach were careful to point out that closely monitoring interim steps would be appropriate with new investigators and also if performance problems were noted with more experienced investigators.

Data on this issue is limited both in time and in number of offices considered and does not establish a causal link between focusing on closure dates and reduced average processing time. It does, however, reflect an apparent correlation between early emphasis on completing the investigation and average processing time. In addition, it brings the effectiveness of micro-monitoring as a productivity and timeliness control into question. In other words, do cases tend to "fall through the cracks" during the final stages of investigation if the management focus is on beginning stages? Certainly, if offices emphasize the beginning steps of investigations to such an extent that managers lose sight of subsequent and/or closing steps, then productivity and quality will suffer.

Issue: Processing Aged Inventory

All offices are concerned with reducing the percentage of 300 day old charges in their workloads, which often result from processing delays, and all offices have procedures for dealing with aged cases. The methodologies vary little and include the following techniques: (1) distribution of by-unit or by-investigator lists of current and projected 300 day old cases; (2) top management or task force meetings with supervisors to discuss the status of aged cases; (3) unit memoranda to individual investigators with projected closure dates for aged cases; (4) calendars of projected closure dates; and, (5) supervisor-investigator meetings, at least monthly during the last half of the fiscal year, to discuss the status of aged cases. All of the offices reviewed use one or more of these methods effectively in FY 1985 and FY 1986 so that an acceptable level of aged cases, as defined by performance indicators, was achieved. At the end of FY 1985 in the offices reviewed, .7 to 2% of the inventory was in the 300 day old category and at the end of FY 1986, .5 to 1%. However, in FY 1987, offices were less successful in achieving target levels for 300 day old cases, due in part to larger pending inventories and in part to the elimination of the Early Litigation Identification charge category which excluded cases from the 300 day old count. The percentage of 300 day old cases in the offices reviewed ranged from 3.9 to 13% at the end of FY 1987. Examples of office techniques for monitoring 300 day old cases can be found at Exhibit 6.

Office Technique:

* Management Review Group

  Early in the fourth quarter, one office management team began an effort to reduce the percentage of 300 day old cases in the pending inventory. The project consisted of involving all office managers and supervisors in reviewing all 300 day old cases on hand (as well as cases projected to reach 300 day old status by September 30), separating the cases according to the kinds and amounts of investigation needed, specifying the steps required, prioritizing certain cases (full investigations, potential cause cases and cause cases in conciliation) and assigning parts of the investigative work, mostly closure tasks to the management team. The overall plan was mapped out in detail with specific objectives and included regular meetings of the management review group to discuss progress on the project. By the end of the fiscal year, the office's 300 day old cases had been reduced to 3.9% of inventory.

There are recognized drawbacks to the annual push to close 300 day old cases. For example, the investigation of older cases takes longer (witnesses are often difficult to locate, witness memories are less reliable, documents may be lost, etc.), newer charges must be set aside and closing a larger percentage of old cases increases the office's average processing time. All

of these factors tend to increase the aging problem for the coming year. For these reasons, the agency recently implemented procedures for monitoring FY 1988 SES performance plans on a quarterly basis, including a standard for reducing the percentage of 270 day old cases in inventory. Most managers believe that the only long-range solution to the problem of aged cases (and average processing time) is a manageable inventory of no more than six months which would allow an office to conduct full investigations and turn the inventory over at least twice a year.

PART C: QUALITY

As discussed in the introduction, the primary concern in the offices we visited was the production of quality work products. In all of the techniques offices used to foster timely processing and productivity, quality was a priority objective. For example, when managers expressed concerns about processing delays, part of their concern was related to the difficulty of conducting a quality investigation of events that occurred six months or a year prior to beginning the investigation. In addition, controlling caseload size, which produced tangible productivity improvements in at least one office also targeted quality. Managers who use controlled caseload size as a management technique believe that investigators are better able to do quality work with a manageable caseload.

Although no official EEOC definition of a quality investigation exists, an interim report of the Investigations Task Force, issued November 24, 1986, defined quality criteria which were incorporated in field SES and GPAR performance plan and rating guides. The quality criteria include the following critical components of a quality investigation:

- accurate determination of bases and issues
- appropriate and sufficient case development
- appropriate and sufficient evidence
- appropriate analysis
- consistency with Commission policies and procedures

In the offices we reviewed, several methods were used by managers and supervisors to ensure that a sufficient level of quality is maintained. For the most part, the methods involve management-employee interaction during the investigative process; however, we found that motivational techniques are also an important factor in management efforts to improve quality. Following the descriptions of office-specific techniques for improving quality and motivating employees, there is a discussion of a major concern among top managers in the offices we reviewed regarding the competency of first-line supervisors and its impact on quality.

Office Techniques:

Management Interventions

Office techniques specifically targeting the achievement of quality through management intervention are described below. The results of such approaches are less easily measured than those techniques targeting production and timeliness. Established QA offices measure characteristics of work products for quality, but none of the offices we reviewed had attempted to systematically measure the results of improvement techniques in terms of final work products.

1. Supervisor/Investigator Interaction

The most common technique employed by supervisors to manage the quality of investigations was an open-door policy for as-needed discussions with employees about problems and issues that arise on cases under investigation. Some supervisors use the open door policy as an adjunct to bi-weekly or monthly case review meetings with individual investigators. One supervisor of an extended unit related her familiarity with the facts of all cases in the unit (500 cases at that time) to the unit's record of having few cases returned by top managers for substantive deficiencies. Other interaction techniques include (1) unit meetings, as needed, to discuss new policy or procedural directions, and (2) unit training sessions on problem areas noted by management or raised by investigators.

The following timeline reflects the points during an investigation when most supervisors normally intervene to ensure quality:

		On-Going/As-Needed Discussions		
		Investigative Decision		
Charge	IP/RFI	(on-site/desk)	No Cause IM/ LOD, Admin/ Settlement	Cause IM/LOD (to Legal)

2. Field Investigations

Most managers and first-line supervisors fully support the agency's recent emphasis on on-site investigations, and some of the offices we reviewed had proactively begun to encourage more field investigations. Most believed increasing field investigations would not only allow more expeditious processing but would also improve the quality of investigations and increase the office percentage of cause determinations. In every office we visited, one or more supervisors cited examples of outstanding performers who conducted a high percentage of their investigations on-site.

One office began in FY 1986 to urge investigators to conduct more on-site investigations. As part of a QA project, an in-house video training course on field investigations was developed and presented to all staff to initiate the program. Over time, management has continued to encourage investigators to go on-site, and the number of on-sites conducted by the office is increasing. One supervisor reported his unit had conducted more on-sites in FY 1987 than other units in the office and directly related that to his unit's high percentage of cause recommendations: by the end of the second quarter over 100 on-sites had been conducted by the unit, 25 cause recommendations had been submitted, and 14 cause determinations issued.

Some managers expressed concerns about increasing the number of on-sites. Their concerns included the additional number of GSA cars required (or additional funds for the use of private vehicles) and increased insurance costs for employees who used their own cars for site visits. Management also reported reluctance on the part of some investigators to go on-site and were looking forward to the Dallas training conference to reinforce office efforts.

3. Special Emphasis Investigations

All offices have methods in place for categorizing charges, at least to the extent of identifying more complex cases for extended processing. In addition, all of the offices reviewed utilize some method for identifying certain other charges for priority handling, e.g., sexual harrassment charges, other charges that may require injunctive relief and charges that appear to be good potential litigation vehicles (PLV's). As a rule, the methodologies are simply management review of incoming or active charges, differing from office to office only in formality and levels of the review process. The following is a description of one special emphasis project that targets quality improvement:

Potential Litigation Vehicles

One office not included in the original review group has implemented an effective program for identifying and monitoring PLV's that has not only strengthened the office's litigation efforts but has also resulted in significant unexpected benefits. The office managers report a surprising, lower average processing time for the prioritized cause case investigations than for other kinds of closures. In addition, the Enforcement Manager and the Acting Regional Attorney believe the program has been a valuable training mechanism for both investigators and first-line supervisors. Charges are selected for this project in two basic ways: (1) through top management review of incoming charges and R data; and, (2) by recommendation of supervisors and investigators at any time during the investigation. Once a charge is selected for the program, it is posted on a tracking board in the Enforcement Manager's office, and all investigators with charges on the board meet periodically as a group with first-line supervisors, attorneys, the Enforcement Manager and the Acting Regional Attorney to provide updates on case progress and to discuss any problems or issues related to the cases.

The Acting Regional Attorney reports these meetings have significantly reduced the review time normally required for cause cases because managers are informed throughout the investigative process and can provide guidance on thoroughness and quality at important stages. The training value comes from the participants' exposure to feedback given at the meetings on a variety of problems and issues raised by the cases presented.

4. Standardization

Several offices have taken minimal steps toward standardizing some of the documents required in the administrative charge process. Although these efforts are aimed at streamlining some of the procedures, quality improvement is equally targeted in most instances. In addition to the previously discussed "how to" check lists developed by some offices, other offices and some individual supervisors require that investigators use a standard format for writing cases up. The formats are designed to walk the the reader through an investigation in a step-by-step fashion to the conclusion. Managers believe this kind of format not only makes cases easier to write and to review but also forces investigators to focus on the issues and evidence in a logical manner.

One office (district and area) is now using an outline for the Investigators' Memorandum (IM) including a summary paragraph that can be transferred to the Letter of Determination (LOD) with minimal changes. The summary paragraph is an aid for the reviewer and a time-saving device for the investigator. The office has provided in-house training in the new method, and transition to its use has been smooth.

ɔtivational Techniques

ɔst managers agreed that employee morale was important to effective case ınagement, and none of the offices reviewed appeared to have a significant ɔrale problem. Some managers have developed useful techniques for creating ıthusiasm among employees and motivating them to higher levels of achieve-ɔnt. Some of these techniques are described below.

Competition and Awards

One office has been able to create an atmosphere of enthusiasm and friendly competition among units and among staff that has paid off in a high level of performance throughout the office. In addition to the agency monetary awards program, all of the managers in this particular office make good use of innovative, non-monetary incentives throughout the year. Examples of the incentives used by the office include the following:

(1) office recognition of outstanding unit performance every quarter based on weighted factors for eleven performance indicators,

(2) unit recognition of outstanding individual performance and unit accomplishments, including memos, meetings and unit celebrations on completing difficult tasks,

(3) creative, motivational memoranda to staff from enforcement managers and firstline supervisors.

2. Quarterly and Annual Awards

Another office has an incentive awards program separate from the agency's awards program which recognizes one professional and one clerical employee-of-the-quarter. The awards are based on quality and productivity performance indicators. Each quarter, winners in the district and area office are recognized with a monetary award and a plaque, and at the end of the year, there is competition between the district and area office for an office-of-the-year award. Management is now planning to add to the program in FY 1988 by also recognizing those employees who are close runners-up each quarter.

The managers who use these kinds of incentive programs and initiatives are convinced they make a notable difference in attitude and performance. In discussing the problems created by lack of commitment, one first-line supervisor pointed out the fact that EEOC has many GS-12 investigators and GS-13 supervisors who have been in grade for several years and who, in most cases, have little opportunity for advancement. Under those circumstances, a lack of intensity and declining motivation are somewhat understandable unless there is some kind of alternative incentive to work toward. Samples of some of the more creative motivational memoranda and the basic designs of the office awards systems can be reviewed at Exhibit 7.

ISSUE: First-Line Supervisors

There was general agreement in most offices among top-level program managers and regional attorneys that the first-line supervisor is the key element in managing the work of the office. They believe the quality of investigations, the flow of charges through the system and the morale of staff all turn on that critical position. One director candidly attributed office success at least partially to removing or downgrading incompetent supervisors over a period of time and replacing them with a high-performing management team. In that office, the enforcement manager now spends less time reviewing cases (25%) than our review indicates was reported in other offices, fewer cases are returned by the enforcement manager for substantive (or minor) errors, and the regional attorney reported that recent cause case reviews had resulted in over 70% concurrence with very few cases returned for additional investigation.

Most managers, however, expressed concern about the competency and commitment of EEOC's first-line supervisors. Problems in offices that were linked to deficiencies in supervisory competence included:

(1) poor quality investigations because supervisors either did not spend enough time with investigators to ensure quality or lacked the ability to train staff in quality work or lacked the management skills to deal with performance problems;

(2) wasted time in the review process and, consequently, in reinvestigation because supervisors allowed cases with basic deficiencies to move up the review ladder;

(3) low productivity because supervisors failed to manage the work properly and to proactively deal with production lags; and

(4) low employee morale for all of the above reasons since the first-line supervisor is the central figure in day-to-day contacts with staff.

There were a number of reasons given for the perceived lack of competence including: (1) lack of training in management effectiveness, personnel procedures and compliance; (2) inappropriate placements resulting from settlement of grievances or court actions; (3) excessive unit workloads; (4) burdensome recordkeeping practices and (5) the burnout brought on by length of time in grade discussed in the previous segment. Whatever the reason, there was consensus agreement that the problem is widespread and must be dealt with if the agency is to improve its effectiveness. However, none of the offices had specific on-going programs for developing first-line supervisory skills.

PART D. NLRB REVIEW

NLRB's process differs significantly from EEOC's in the final stages, but the investigative processes are somewhat similar, i.e., both agencies conduct administrative investigations of charges of disparate treatment in the workplace. However, the most persuasive reason for reviewing NLRB's case management system is not the comparability of functions but the comparability of problems faced by the two agencies at different points in time. In the late 1950's, NLRB found itself facing problems very similar to the problems faced by EEOC today - a growing backlog and excessive processing delays. In response to complaints from Congress and the private bar about the situation, NLRB's Office of General Counsel initiated the design of a case management system that proved to be effective in solving the problems. Moreover, the solution was a permanent one, and few changes have been made over the years. Joseph E. DeSio, current Associate General Counsel and head of field operations, has been with NLRB since the inception of its case management system and attributes the success of its implementation to involving field managers in the design process, allowing adequate time to achieve the goals (three years) and obtaining Congressional support for funding necessary staff additions. The following key elements of the system were identified by Mr. DeSio:

1. Reasonable time targets at major investigative stages
2. Accurate measurement of targets and prompt feedback to the field
3. Maintenance of an agencywide workload balance
4. Direct involvement of field management in the investigative process
5. Linkage between headquarters and field

Our purpose in reviewing NLRB's system was to identify any NLRB techniques that might be relevant to EEOC's process. The following NLRB approaches to case management appear to be most applicable to EEOC:

Management Review Practices

We found that NLRB supervisors and managers make it a practice to stay informed on the status of cases from the outset through completion. Supervisors monitor the progress of cases closely and keep top managers advised throughout the investigation. Upon completion of the investigation, an agenda meeting is held where the field examiner and/or supervisor present the facts of the completed case to top managers, including the Director and Regional Attorney. Concurrence or non-concurrence with the field examiner's recommended determination is reached at the agenda meeting, and, therefore, review time is eliminated.

Manager involvement is an integral part of NLRB's case management system, a system which ensures that investigations and resulting administrative actions are normally completed within 45 days of receipt. Because cases are investigated promptly, evidence is more easily obtained, witness recollections are fresh and the parties' positions have not hardened. Thus, NLRB's case management system enables managers to maintain a high level of efficiency by processing cases on a current basis. The system was implemented in the early 1960's in order to cope with problems of a growing backlog and excessive processing delays. The system enabled NLRB to overcome these obstacles although intake receipts more than doubled during the next ten years. Given the similarities between EEOC and NLRB case processing, it appears that EEOC could effect comparable efficiencies by adopting relevant aspects of NLRB's case management system.

Measurement

One of the major changes made by NLRB when it implemented its case management system was to standardize and simplify the measurement process. This was done by looking at the entire range of administrative tasks and segmenting the process into major stages. NLRB's system has three major stages and time targets for unfair labor practice investigations. The first stage covers the investigation to a determination and has a time target of 30 days. The remaining two stages cover the implementation of the action required by the determination within 15 days (settlement, withdrawal or issuance of a complaint) and scheduling a hearing before administrative law judges within 45 days, a total of 90 days for the entire process. The first two segments of NLRB's measurement system, conducting the investigation and issuing the determination results, are most comparable to EEOC's administrative process.

NLRB's accomplishments are measured by the median number of days required to complete each stage. According to Mr. DeSio, the reason for choosing the median point for measurement instead of an average was to avoid having the results skewed by exceptional cases at either extreme. The median time targets were established by NLRB based on an existing time study that allowed the Board to determine with certainty how long the administrative processes should take and, from that, to say exactly how many cases a field examiner could be expected to complete in a given period of productive work time. Armed with this data, NLRB was able to present the proposed case management system to Congress persuasively and, therefore, was able to secure the necessary staff and resources to fully implement the system. Although standardization was not a popular move with NLRB regional directors at the time, and although many believed the median standard could not be achieved, the system was imposed. The standards were achieved, and from 1958 to 1978 the median number of days for reaching a determination was reduced from more than 30 to 20 days.

Another important factor in NLRB's approach to measuring performance is frequent and prompt feedback of performance standings to field offices. On a monthly basis, field offices report completed actions and over age cases to headquarters where the data is compiled and fed back to the regions within approximately two weeks. The feedback format is such that offices can see where they stand in relation to other offices without identifying other offices. (See Exhibit 8 for examples of the kind of monthly reports provided to the regional offices.) In discussing performance feedback, the EEOC managers we interviewed expressed an interest in knowing how their offices were performing in relation to other EEOC offices.

CONCLUSIONS AND RECOMMENDATIONS

In spite of all the gains made in recent years, the agency is still not meeting public demand for "swift justice".* For example, despite the efforts of headquarters and field offices, overall average case processing time in FY 1987 was 291 days. Swift justice requires that the agency open investigations promptly and proceed through the investigative stages and the review process without unnecessary delays. Therefore, EEOC's goal must be to conduct investigations and reach determinations in the shortest possible time without compromising quality.

At present, the agency's inventory of aged cases is growing again, inhibiting the agency from meeting both timeliness and quality requirements. The study findings indicate that offices use a variety of identified practices and strategies to cope with burdensome caseloads (averaging approximately 1300 cases per office at the end of FY 1987). These efforts must be continued, and methods for sharing effective case management techniques among offices should be developed. In addition, agencywide initiatives such as the headquarters oversight and technical assistance support provided by the Office of Program Operations, improved computerized tracking systems by Information Systems Services, the Quality Assurance program, enhanced training support for field supervisors and staff and employee incentive programs should all be strengthened and continued. However, as long as the caseload per investigator remains high and office inventories include a high percentage of older cases, only incremental gains can be expected from these kinds of programs and problem-specific strategies, and EEOC will continue to struggle with the cyclical nature of controlling its workload.

In order to ensure that maximum short- and long-term improvements are realized from the study, we recommend an integrated plan of action be developed. The action plan should include immediate steps to improve field performance indicators, as well as development of a redesigned system that will ensure long-term improvements. In addition, we believe an equally important component of the agency's plan should be a consensus building strategy to gain the support of agency managers, constituent groups and Members of Congress. By constructing a strategy around these three components -immediate improvements, system redesign and consensus building we believe the agency can, within three years, achieve the goal of providing swift justice to the public.

Processing Delays - Case Log Review

The following chart reflects processing delays noted by an area office director in conjunction with the office's normal quality review of closed cases. The director recorded only those delays that were within the investigator's control and that appeared to be excessive. A total of 33 cases and 56 periods of delay were identified by the review which covered approximately one-and-one-half years. No delays attributable to recalcitrant respondent's, difficult to locate witnesses, etc. were included. The chart was compiled from copies of memoranda written by the director to unit supervisors.

Number of Delays	(%)	Investigative Stage
25	44.6	Between completion of the investigation and CP/R Pre-Determination Interview (PDI)
15	26.7	Between completion of the investigation (including PDI's) and closure
9	16.1	During the investigative process (on-site, mail-in data gathering, witness interviews, analysis, etc.)
7	12.5	Investigator's processing errors:
		2 Failure to follow instructions
		3 Failure to identify dismissals (lack of jurisdiction, failure of the prima facie case, etc.)
		1 Failure to follow up on lengthy legal review time
		1 Other unidentified time lapse

*Houston District Office description of EEOC's mission.

Case Log Reviews

Case Type	Time Target	Processing Time	Opening	Investigation	Write-Up
Early Resolution (ER) - PDI Only	15 - 20 Days	73 Days		Failure to PDI CP for 60 days	
No Jurisdiction (less than 15 employees)	0 Days (Intake failed to ask CP the # of employees)			Failure to determine lack of jurisdiction after case assignment	
ER	50 Days (Average for ER's)	118 Days			70 days elapsed between receipt of data and write-up
ER	25 Days	107 Days			75 to 80 days delay after PDI
ADEA - 7(d)	10 - 20 Days	116 Days		Inv. converted to 7(b) after 7(d) - no rationale	Approximately 100 days from 7(d) to write-up
				60 days between 1st PDI attempt and 30-day letter	
ER	10 - 12 Days	64 Days			56 days between PDI and write-up
ER	15 - 30 Days	88 Days			76 days from PDI to write-up

Case Type	Time Target	Processing Time	Opening	Investigation	Write-Up
ER	25 Days	71 Days		16 days from 1st PDI to PDI letter	54 days from PDI letter to write-up
ER	25 Days	69 Days		No CP telephone # - delay in mailing PDI letter	
		195 Days		On-site delayed for approx. 100 days/ 19 days between PDI attempt and letter	
				Approx. on-site delay of 100 days - no rationale	
	50 Days	170 Days		30 days delay between R data and CP rebuttal 30 days between rebuttal and on-site decision 60 days between on-site decision and appointment	
	70 Days	143 Days		60 days between identifying and interviewing witnesses	14 days delay in write-up

Case Type	Time Target	Processing Time	Opening	Investigation	Write-Up
	60 Days	140 Days			50 days delay in write-up
				90 days delay between completion and PDI CP	
ER - PDI Only	15 Days	138 Days		120 days delay in getting R data - no explanation	
				105 days delay - PDI CP	
					105 days delay in writing up
				65 days getting R data - no subpoena, no rationale	
	100 Days	250 Days		120 days - R data to CP contact/30 days-add'l R data to PDI R	
	35 Days	113 Days		76 days - R data to PDI CP	

Case Type	Time Target	Processing Time	Opening	Investigation	Write-Up
					Approx. 120 days from R data to write-up
No jurisdiction		116 Days		102 days - R data to closure (less than 15 employees/policy to refer such cases to MHHRC)	
				229 days - R data to PDI CP	
				259 days/no explanation	
	60 - 90 Days	264 Days		197 days - R data to PDI CP letter	
	40 - 60 Days	264 Days		220 days - R data to PDI CP	
		300+ Days		165 days (unclear)	
				105 days between settlement contacts - no rationale	

Case Log Reviews

Case Type	Time Target	Processing Time	Opening	Investigation	Write-Up
		339 Days		220 days - R data to PDI CP letter 21 days - add'l CP contacts	
	275 Days	545 Days		90 days legal review - no followup	180 days - legal review completion to write-up
		259 Days		191 days - R data to PDI	
		305 Days		230 days - R data to CP 30-day letter	
	30 Days (at most 90)	284 Days			253 days from R data to write-up
EP (PDI Only)	10 Days	100 Days			93 days - PDI CP to write-up

890

Case Type	Time Target	Processing Time	Opening	Investigation	Write-Up
Discharge - NO	90 - 120 Days	388 Days		241 days - R request for extension to next contact 56 days - on-site visit to PDI CP	
		326 Days		180 days - R data to CP contact 102 days reaching CP	
				114 days - R data to attempted CP contact	
		300+ Days			268 days - R data to write-up
Dismissal - Self-Defeating	0 Days	152 Days	Failure to dismiss/no standing to file		
		340+ Days		278 days - R data to PDI CP	
ADEA - 7(d)	60 Days	270+ Days	Failure to follow 7(d) instructions	189 days from assignment to R data	Approx. 60 days - data to write-up

UNITED STATES GOVERNMENT

Memorandum

BIRMINGHAM DISTRICT OFFICE
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
[illegible] 8TH AVE., NORTH, EIGHTH FLOOR
BIRMINGHAM, ALABAMA [illegible]

TO : John Schmelzer, Director
Field Management East

DATE: January 19, 1988

In reply refer to:

FROM : George Frank Jordan
District Director GFJ

SUBJECT: Problems Associated with the Charge Data System Update

This memorandum is an addendum to the memorandum directed to you on January 14, 1988, in reference to the continuing problems experienced in installing the CDSBASE UPDATE-2.8.4.

After several attempts to install the CDSBASE Update and to reload office backup data, the Charge Data System is still inoperable. As a result of this problem, we are unable to produce the quarterly reports; to tell whether any ADEA charges have run the statue of limitations; to provide a sample of the case management system (as requested by you); produce status reports and monthly workload reports, and there is a two-week backlog in data entry.

It is crucial that assistance be provided by Field Management Programs-East in correcting the situation caused by Information Systems Services.

1/19/88
Faxed at
11:15 CST. (A.M.)
JF

BUY U.S. SAVINGS BONDS REGULARLY ON THE PAYROLL SAVINGS PLAN

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

ATTACHMENT D

Office of
General Counsel

JAN 19 1988

MEMORANDUM

PURPOSE: INFORMATION

TO : CLARENCE THOMAS
Chairman

R. GAULL SILBERMAN
Vice-Chairman

TONY E. GALLEGOS
Commissioner

EVAN J. KEMP, JR.
Commissioner

JOY CHERIAN
Commissioner

FROM : CHARLES A. SHANOR CAS
General Counsel

RE : Summary of Supreme Court Decision in Evelyn Marino, et al., Petitioners v. Juan U. Ortiz et al., No. 86-1415 (January 13, 1988).[1]

The Supreme Court, in a per curiam opinion, affirmed judgments handed down by the Second Circuit in these consolidated cases. An equally divided Court, affirmed the appellate court's dismissal of petitioners' Fourteenth Amendment suit as an impermissible collateral attack on a consent decree by nonparties to the underlying litigation (Marino). The Court also affirmed the Second Circuit's dismissal of petitioners' appeal of a consent decree agreed to by the parties involved (Costello).

Petitioners were a group of white police officers who sought to challenge a consent decree resulting from a suit by black and Hispanic police officers against the New York City Police Department under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq. Although petitioners could have intervened, as several other groups did, petitioners only raised objections in the district court during the proceedings before

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[1] This was a consolidated hearing of the above captioned case together with Costello, et al. v. New York City Police Dept., et al..

the final consent decree was issued by the court.[2] Instead, the petitioners filed suit in district court alleging that their Fourteenth Amendment equal protection rights had been violated.[3] The district court dismissed the petitioners suit, holding it to be an impermissible collateral attack on a consent decree by parties who could have intervened in the earlier litigation. The court of appeals affirmed. Because the Supreme Court was equally divided on this issue, the court of appeals' decision was affirmed.

The petitioners also attempted to appeal the consent decree to the Court of Appeals. This appeal was dismissed by the appellate court because the petitioners were not parties to the litigation giving rise to the consent decree. The Supreme Court affirmed, reasoning that it is a well settled rule that only parties to a lawsuit, or those that properly become parties, may appeal adverse judgments, citing United States ex al. Louisiana v. Jack, 244 U.S. 397, 402 (1917). The Court noted that nonparties whose interests are affected by a trial court's judgment can best protect that interest through intervention efforts.

Attachment

cc: James Troy
Richard Komer
Dolores Rozzi
Deborah Graham

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[2] All parties agreed to the settlement with the exception of a group of individual police officers known as the "Schneider Intervenors." Although they did not agree with the settlement, they chose not to appeal.

[3] The consent decree provided that blacks and Hispanics be promoted to sergeant until the racial-ethnic composition of new sergeants was approximately the same as the racial-ethnic composition of those candidates taking the test. Petitioners alleged that their test results were at least equal to the lowest minority test score of those promoted, but they (petitioners) were not promoted or placed on the eligibility list.

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 86–1415

EVELYN MARINO, ET AL., PETITIONERS *v.*
JUAN U. ORTIZ ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[January 13, 1988]*

PER CURIAM.

Petitioners seek to challenge a consent decree approving an agreement settling a Title VII lawsuit against the City of New York. After the results of a police sergeant's examination revealed that blacks and Hispanics had passed the examination at disproportionately low rates, groups representing these minority members of the New York City Police Department sued the Department under Title VII of the Civil Rights Act of 1964, 78 Stat. 253, as amended, 42 U. S. C. §2000e *et seq.* Three other groups were permitted to intervene as codefendants: "the Sergeants Benevolent Association ('SBA'), representing over 500 officers on the eligible list who had obtained provisional appointments as sergeants; the Sergeants Eligibles Association ('SEA'), representing officers who were on the eligible list but had not received provisional appointments; and various white ethnic societies and other individual officers (the 'Schneider Intervenors')." *Hispanic Society of New York City Police Dept.* v. *New York City Police Dept.*, 806 F. 2d 1147, 1151 (CA2 1986) (*Costello* case below). The parties reached settlement, which was first approved by the District Court on an interim basis, and finally, after a hearing, by consent decree. The

*Together with *Costello, et al.* v. *New York City Police Department, et al.*, also on certiorari to the same court (see this Court's Rule 19.4).

settlement provided that black and Hispanic candidates who had failed to make the eligible list would be promoted until the racial/ethnic composition of the new sergeants was approximately the same as the racial/ethnic composition of the group of candidates taking the test. The SBA and the SEA signed the agreement; the Schneider Intervenors, although opposing the settlement, chose not to appeal.

Petitioners are a group of white police officers who claim that they were not placed on the eligible list even though they had scored at least as high on the examination as the lowest scoring minority officer promoted under the interim order. Although they presented their objections to the District Court at the hearing, they chose not to move to intervene pursuant to Federal Rule of Civil Procedure 24, either initially as codefendants or later to replace the Schneider Intervenors for purposes of appeal. See *United Airlines, Inc.* v. *McDonald*, 432 U. S. 385, 395 (1977). Instead, they filed suit during the period between the interim approval of the settlement and the final consent decree, claiming a violation of their Fourteenth Amendment equal protection rights. In 806 F. 2d 1144 (CA2 1986) (*Marino* case below), the Court of Appeals affirmed the District Court's dismissal of petitioners' suit, deeming it an impermissible collateral attack on a consent decree by persons who could have intervened in the underlying litigation. Petitioners also attempted to appeal from the consent decree. In *Costello*, the Court of Appeals dismissed the appeal because petitioners were not parties to the litigation giving rise to the consent decree. We granted certiorari to consider these judgments, 481 U. S. —— (1987).

As to the issue raised in *Marino*, namely, whether a District Court may dismiss as an impermissible collateral attack a lawsuit challenging a consent decree by nonparties to the underlying litigation, we are equally divided, and therefore affirm the judgment of the Court of Appeals. As to the issue raised in *Costello*, we hold that because petitioners were not parties to the underlying lawsuit, and because they failed to

intervene for purposes of appeal, they may not appeal from the consent decree approving that lawsuit's settlement; therefore, we affirm the judgment of the Court of Appeals. The rule that only parties to a lawsuit, or those that properly become parties, may appeal an adverse judgment, is well-settled. See, *e. g.*, *United States ex rel. Louisiana* v. *Jack*, 244 U. S. 397, 402 (1917); Fed. Rule App. Proc. 3(c) ("The notice of appeal shall specify the party or parties taking the appeal"). The Court of Appeals suggested that there may be exceptions to this general rule, primarily "when the nonparty has an interest that is affected by the trial court's judgment." 806 F. 2d, at 1152. We think the better practice is for such a nonparty to seek intervention for purposes of appeal; denials of such motions are, of course, appealable. See *United Airlines, Inc.*, *supra*.

Accordingly, the judgments of the Court of Appeals are

Affirmed.

ATTACHMENT E

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
EEO DISCRIMINATION COMPLAINT ACTIVITY

FY 1988 MID-YEAR SUMMARY

OCTOBER 1, 1987 - MARCH 31, 1988

EEO Counseling Contacts:	98
Formal EEO Complaints Filed:	52
EEO Complaints Closed:	54

COMPARED WITH

FY 1987 MID-YEAR SUMMARY

October 1, 1986 - March 31, 1987

EEO Counseling Contacts:	50
Formal EEO Complaints Filed:	26
EEO Complaints Closed:	27

TRENDS

- EEO Counseling contacts are up 96% for the first half of FY 1988.
- Formal EEO Complaints filed are up 100% for the first half of FY 1988.
- EEO Complaints closed are up 100% for the first half of FY 1988.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
INTERNAL DISCRIMINATION COMPLAINTS
FILED FROM
OCTOBER 1, 1987 - MARCH 31, 1988

A. NEW COMPLAINTS FILED

* Complaints filed during period: 52
* Complaints filed against FIELD OFFICES: 40 (76.9%)
* Complaints filed against HEADQUARTERS OFFICES: 12 (23%)

B. BASES OF DISCRIMINATION ALLEGED

RACE DISCRIMINATION:

* 53.8% (28) of all complaints filed during this period alleged RACE as the basis of discrimination.
  - Of those alleging race, 46.4% (13) were filed based on BLACK RACE;
  - 53.5% (15) alleged discrimination based on CAUCASIAN race;
  - 0% (0) alleged discrimination based on OTHER race.

SEX DISCRIMINATION:

* 36.5% (19) of all complaints filed during this period alleged SEX as a basis of discrimination.
  - Of that number 31.5% (06) alleged discrimination based on FEMALE sex,
  - 68.4% (13) alleged discrimination based on MALE sex.

NATIONAL ORIGIN DISCRIMINATION:

* 1.9% (01) of all complaints filed alleged discrimination based on NATIONAL ORIGIN.
  - Of that number, 1.9% (01) alleged discrimination based on HISPANIC national origin;
  - 0% (0) alleged discrimination based on OTHER national origin.

AGE DISCRIMINATION:

* 30.7% (16) of all complaints filed during this period alleged AGE as a basis of discrimination.

HANDICAP DISCRIMINATION:

* 19.2% (10) alleged HANDICAP

RELIGIOUS DISCRIMINATION:

* 7.7% (04) alleged RELIGION

COLOR DISCRIMINATION:

* 5.8% (03) alleged COLOR

REPRISAL DISCRIMINATION:

* 59.6% (31) of all complaints filed alleged REPRISAL as a basis of discrimination.

C. ISSUES OF DISCRIMINATION COMPLAINED OF:

38.4% (20) of all complaints filed listed PROMOTION as an issue;

26.9% (14) listed EVALUATION/APPRAISAL as an issue;

5.7% (03) listed HARASSMENT (non-sexual) as an issue;

7.6% (04) listed WORKING CONDITIONS as an issue;

3.8% (02) listed SEXUAL HARASSMENT as an issue;

3.8% (02) listed REASSIGNMENT as an issue.....

3.8% (02) listed SEPARATION/TERMINATION as an issue.

D. GRADE LEVEL OF COMPLAINANTS:

* GS-13 and up filed 23% (12) of all complaints.
* GS-11 through GS-12 filed 50% (26) of all complaints.
* GS-07 through GS-09 filed 5.7% (03) of all complaints.
* GS-06 and below filed 15.3% (08) of all complaints.
* Non-Commission employees filed 5.7% (03) of all complaints.

1988 17:02 BIRM DISTRICT OFFICE T2 1202 P.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

JAN 21 1988

MEMORANDUM

TO : George Frank Jordan, Director
Birmingham District Office

FROM : John D. Schnelzer, Director
Field Management Programs East John S. Schnelzer

SUBJECT : Problems Associated with the Charge Data System Update

This is to follow-up your two memorandums dated January 15, 1988 and January 19, 1988 on the above referenced subject matter. Since receiving your first memorandum, this office has been in frequent contact with both ISS and Iris Elom of your office to try to facilitate the resolution to the problems your office has encountered with CDS.

We will continue to provide whatever assistance is necessary to correct the problems with CDS so that the quarterly reports can be generated as soon as practicable after the system has been corrected.

Please let the Program Analyst, Ms. Janie DeVries, know if there is anything further we can do in this regard.

CDS/HERO
Hard Chron

901

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

JAN 2 5 1988

MEMORANDUM

TO : System Administrators

FROM : Richard A. Kashurba, Director
Information Systems Service

SUBJECT : Charge Data System Clearinghouse News Bulletin No. 1

This is a summary of CDS Clearinghouse programs as of December 31, 1987. The Filepro software application programs are ready for field use and can be obtained by forwarding a memo to ISS indicating that desired application program is for an NCR Minitower or IBM PC-XT. Report programs can be dispatched on floppy disk or data cartridge.

Field offices wishing to make report programs developed by their own staff available to other offices may submit reports to the Clearinghouse Center for review.

Ken Seasoms of the Field Support Branch has been designated as the Clearinghouse Coordinator. He is available to answer questions pertaining to this news bulletin and can be reached on FTS 634-6356.

The attached Filepro software programs may be requested by field offices.

Attachments

cc: District Office Directors
Area/Local Office Directors
Field Management Programs (East)
Field Management Programs (West)
Office of Program Operations
Office of Management

PROGRAM NAME : CHARGE DATA VERIFICATION

PROGRAM NUMBER : CHLP0001

DESCRIPTION : This software application program is designed to edit various fields in the CDS Charge file. It examines only those charges requested by the input operator and displays messages for key fields that are incomplete. The intake unit is edited to determine if the charge has been perfected. For unperfected charges, only the charging party name and respondent are checked for common errors. Other key fields are edited to determine if field is "filled"; or edited for specific input unique to a specific office. For example: City = Kansas City, State = KS.

This software application program can be changed to edit all fields in the charge record or tailored to meet the specified requirements of each field office.

USER INPUT: Accountability Office
Range of charge numbers to be validated.

SAMPLE REPORT FORMAT: Attached

CONTACT : Joseph Doherty in the Kansas City Area Office is the author of this software program and can be reached at FTS 758-5773. Ask for program SEQCHK.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
CHARGE DATA VERIFICATION

REPORT-ID: CHLP0001 PAGE NO: 1

OFFICE-ID: 123 TODAY'S DATE: Jan 13, 1988

BEGINNING NO: 123456001
ENDING NO: 123999999

CHARGE NUMBER	MESSAGE	CORRECTED DATE BY

PROGRAM NAME : RESOLUTION REPORT SELECTED BY EOS

PROGRAM NUMBER : CHLP0002

DESCRIPTION : This software application program produces a resolution report by EOS. Records are sorted by today's date and staff initials and subtotal on both.

USER INPUT : Accountability Office
Date range of closure to be included in report.

SAMPLE REPORT FORMAT: Attached

CONTACT : Rocky Ruiz in the Houston District Office is the author of this software application program and can be reached on FTS 226-2676. Ask about report entitled RESOLUTION.

PROGRAM NAME : ENFORCEMENT ADMINISTRATIVE CLOSURE REPORT

PROGRAM NUMBER : CHLP0003

DESCRIPTION This software application program produces an Enforcement Administrative closure summary report by closure type and statute. All closure codes except 'E1' are included.

USER INPUT : Accountability Office
Date range of closures

SAMPLE REPORT FORMAT: Attached

CONTACT : Donna Seabolt in the Charlotte District Office is the author of this software application program and can be reached on FTS 628-7188 for a detail description. Ask for program ENFADIM.

PROGRAM NAME : CLOSURE BY FUNCTION/UNIT/EOS

PROGRAM NUMBER : CHLP0004

DESCRIPTION : Software application program CHLP0004 produces a detail and summary report of closures by function/unit/eos, days in office, statute and benefits.

USER INPUT : Accountability Office
Date range of closures

SAMPLE REPORT FORMAT: Attached

CONTACT : Donna Seabolt in the Charlotte District Office is the author of this software application program and can be reached on FTS 628-7108. Ask for program CTCLOS.

PROGRAM NAME : CHARGES RECEIVED BY INTAKE OFFICER

PROGRAM NUMBER : CHLP0006

DESCRIPTION : Software application program produces a detail report of all charges with an action code of "AO" and "B4" within a selected time period by the intake staff initial. This program can be extended to include all action codes if desired. Charge number, transfer code, date of transfer and staff initials are reflected in this report.

USER INPUT : Accountability Office
Beginning and Ending Date
Intake Staff Initial of "All"

SAMPLE FORMAT REPORT: Attached

CONTACT : Call CDS Hot Line at FTS 653-8096 ask for Ken Sessoms.

PROGRAM NAME : CDS ACTIVE CHARGES

PROGRAM NUMBER : CHLP0005

DESCRIPTION : Software application program produces a detailed report of all active charges. Charges are sorted by staff function and staff unit with subtotal on the total number of active charges, charges received during time period requested by user, and by function and staff unit.

USER INPUT : Accountability Office
Report as of Date

SAMPLE REPORT FORMAT: Attached

CONTACT : Rocky Ruiz in the Houston District Office at FTS 226-2676 for detail description. Ask for report RCP4.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

CHARGES RECEIVED BY INTAKE OFFICER

PAGE NO: 1

PORT-ID: CHLP0006

TODAY'S DATE: Jan 17, 1988

FICE-ID: 123

BEGINNING DATE: 10/01/86
ENDING DATE: 09/30/87

CHARGE NUMBER TRANSFER CODE DATE OF TRANSFER STAFF INITIALS

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
SELECTED EOS S

REPORT-ID: CHLP4002

PAGE NO: 1

OFFICE-ID: 121

TODAY'S DATE: DEC .6, 1

BEGINNING DATE: 10011.5
ENDING DATE: 10304.5

EOS	NEG SETTL	SETTLEMENTS/CONCILIATIONS BENEFITS ACTUAL/PROJ PERS BENF	M/D SETTL	BENEFITS ACTUAL/PROJ PERS BENF	SUC CONC	BENEFITS ACTUAL/PROJ PERS BENF	W/D SETTL	W/D NCDL	UNSUC RECOM LEGAL	TO NO COOP	FAIL TO NFR	NUNTS	NU JURIS	CAN'T LOCATE OTHER	NO VIO PROCES TERM	CAUSE RECOM LITIG REVEN	CLO-SURES	RUN
	0	0	1	10000	0	0	0	0	0	0	0	0	0	0	0	8	1	
		0		0		0								0		0		
		0		1		0												
LAG	0	0	1	10000	0	0	0	0	0	0	0	0	0	0	0	2	1	
		0		0		0								0		0		
		0		1		0												
TOT=	0	0	2	20000	0	0	0	0	0	0	0	0	0	0	0	10	2	
		0		0		0								0		0		
		0		2		0												

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

ENFORCEMENT ADMINISTRATIVE CLOSURE

REPORT-ID: CHLP-003 PAGE NO: 1

OFFICE-ID: 123 TODAY'S DATE: Oct 31, 198

BEGINNING DATE: 100185
ENDING DATE: 093087

CLOSURE TYPE	TITLE VII	ADEA	EPA	TITLE VII & ADEA	TITLE VII & EPA	ADEA & EPA	OTHER	TOTALS
NTS (N2)	1				1			2
NO M/U SEN (V2)					1			1
CP FILES SUIT (E1)								0
FTL (E4/E5)								0
FTD (E6)								0
FTA (E8)								0
7D								
CEASE (E2) PROCESS								0
WD (V1)								0
TOTALS	1	0	0	0	2	0	0	3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

CLOSURES BY FUNCTION/UNIT/EOS

REPORT-ID: CHLPYA04 PAGE NO: 1

OFFICE-ID: 123 TODAY'S DATE: Oct 21,

BEGINNING DATE: 100185
ENDING DATE: 103085

CHARGE NUMBER	RESPONDENT	FUN/UNIT/EOS	CLOS DATE	CODE	T7	ADEA	LPA	BENEFITS PERSON	BENEFITS DOLLARS	OFFICE AGE	EOS DATE	EOS AGE	DEDUCT	EQ CP
123850003	R9	E 1	850101	R1	3	X		5	10000	273		0		

Charges Closed by EOS: 1 Total Benefits: Number of Persons: 5 Dollar Amount = 10000

Total office Age of Charges: 273 Total EOS Age: 0 Total EOS CPT= 300-Day Closures: 0
Average Office Age= 273 Average EOS Age= 0 Average EOS CPT=

Total No Cause/No Violation(R3)= 0 Total Negotiated Settlement Agst(R2)= 0 Total W/Drawal W/O Benefits(Y2)= 0
Total Conciliation Failures(R5)= 0 Total Conciliation Agreements(R4)= 0 Total W/Drawal With Benefits(R1)= 1
Total Failure to Locate(E4/E5)= 0 Total NRTS at CP Request(N2)= 0 Total No Jurisdiction(Y1)= 0
Total ADEA Suit by CP(E1)= 0 Total Failure to Cooperate (E6)= 0 Total Other= 0

A. Title VII

1. Settlements	0
2. Withdrawals W/benefits	0
3. Suc Conciliations	0
4. Unsuc Conciliations	0
5. No Cause	0
6. Admin Closures	0
7. Total	0

B. ADEA

1. Settlements	0
2. Withdrawals W/benefits	0
3. Suc Conciliations	0
4. Unsuc Conciliations	0
5. No Cause	0
6. Admin Closures	0
7. Total	0

C. EPA

1. Settlements	0
2. Withdrawals W/benefits	0
3. Suc Conciliations	0
4. Unsuc Conciliations	0
5. No Cause	0
6. Admin Closures	0
7. Total	0

D. Title VII/ADEA

1. Settlements	0
2. Withdrawals W/benefits	1
3. Suc Conciliations	0
4. Unsuc Conciliations	0
5. No Cause	0
6. Admin Closures	0
7. Total	1

E. Title VII/EPA

1. Settlements	0
2. Withdrawals W/benefits	0
3. Suc Conciliations	0
4. Unsuc Conciliations	0
5. No Cause	0
6. Admin Closures	0
7. Total	0

F. Other

1. Settlements	0
2. Withdrawals W/benefits	0
3. Suc Conciliations	0
4. Unsuc Conciliations	0
5. No Cause	0
6. Admin Closures	0
7. Total	0

G. Totals

1. Settlements	0
2. Withdrawals W/benefits	1
3. Suc Conciliations	0
4. Unsuc Conciliations	0
5. No Cause	0
6. Admin Closures	0
7. Total	1

Total Days in Office= 273 Total EOS CPT=
Average Age of Charges= 273 Average EOS CPT=

Total Persons Benefited= 5 Total EOS Age= 0
Total Dollar Amount= 10000 Average EOS Age= 0

300-Day Closures= 0 TOTAL CHARGES CLOSED= 1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

CLOSURES BY FUNCTION/UNIT/EOS

REPORT-ID: CHLT0004 PAGE NO: 1

OFFICE-ID: 123 TODAY'S DATE: Oct 21, 1

BEGINNING DATE: 10/1/85
ENDING DATE: 10/31/85

CHARGE NUMBER	RESPONDENT	FUN/UNIT/EOS	CLOS DATE	CODE	7	ADEA	EPA	BENEFITS PERSON	BENEFITS DOLLARS	OFFILE ADE	EOS DATE	EOS ADE	EOS DEDUCT	EOS CPT
A. Title VII														
1. Settlements		0												
2. Withdrawals W/benefits		0												
3. Suc Conciliations		0												
4. Unsuc Conciliations		0												
5. No Cause		0												
6. Admin Closures		0												
7. Total		0												
B. Title VII/ADEA														
1. Settlements		0												
2. Withdrawals W/benefits		1												
3. Suc Conciliations		0												
4. Unsuc Conciliations		0												
5. No Cause		0												
6. Admin Closures		0												
7. Total		1												
C. Totals														
1. Settlements		0												
2. Withdrawals W/benefits		1												
3. Suc Conciliations		0												
4. Unsuc Conciliations		0												
5. No Cause		0												
6. Admin Closures		0												
7. Total		1												
B. ADEA														
1. Settlements		0												
2. Withdrawals W/benefits		0												
3. Suc Conciliations		0												
4. Unsuc Conciliations		0												
5. No Cause		0												
6. Admin Closures		0												
7. Total		0												
E. Title VII/EPA														
1. Settlements		0												
2. Withdrawal W/benefits		0												
3. Suc Conciliations		0												
4. Unsuc Conciliations		0												
5. No Cause		0												
6. Admin Closures		0												
7. Total		0												
C. EPA														
1. Settlements		0												
2. Withdrawals W/benefits		0												
3. Suc Conciliations		0												
4. Unsuc Conciliations		0												
5. No Cause		0												
6. Admin Closures		0												
7. Total		0												
F. Other														
1. Settlements		0												
2. Withdrawals W/benefits		0												
3. Suc Conciliations		0												
4. Unsuc Conciliations		0												
5. No Cause		0												
6. Admin Closures		0												
7. Total		0												

TOTAL CHARGES CLOSED FOR OFFICE= 1

300-Day Closures= 0

Total Days in Office= 273
Average Age at Charge= 273

Total EOS Age= 0
Average EOS Age= 0

Total Person Benefited= 5
Total Dollar Amount= 10000

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

CDS ACTIVE CHARGES

AS OF OCTOBER 21,1985

REPORT-ID: CHLP0005 PAGE NO: 1

OFFICE-ID: 123 TODAY'S DATE: OCT 21, 19

CHARGE NUMBER	RESPONDENT NAME	DATE FILED	CHARGING PARTY NAME	ASSIGNED UNIT	ASSIGNED EOS	ASSIGNED DATE	STATUTE	BASIS	ISSUES	AGED DAYS	SUBPOENA ISSUED	SUBPOENA DAYS	TOTAL DAYS
123780555	R4	012978	AHA, STANLEY				A			0			
123850008	R9	020285	ACA,				I			0			
123850009	R10	050585	AFA,				A			0			
123850010	R11	080885	BABA,				ET			0			
123850019	R19	090985	NANA,				E			0			
123850020	R20	090985	LALA,				I			0			
123850024	R24	101085	MAMA,							0			
123850025	R25	101085	LALA,							0			
120860100	HALE	090985	HALE,				I			0			
123860101I	MD	103085	JON,							0			
123860102	MD	103085	BO,				I			0			
123860104	MEIN	101085	LO,				A			0			
123860111	MD	101085	MO,				I			0			
123860112	TOD	103085	TEE,				I			0			
123860118	HEHE	101085	BOBO,				E			0			
123860119	VOLVO	101085	BOBO,				I			0			
123860160	EEOC		JONES,							0			
	MD	101085	OH,							0			
123860208	JULES	020285	VIVIAN,							0			
123860209	BOBO	050585	BOBO,				AI			0			
123860220	VITRO	090985	SMITH,				AET			0			
123860232	BLUE	050585	GREEN,				I			0			
123860233	HEKI	050585	VEGA,							0			
123860234	DKDK	050585	DKD,							0			
	EOC		JONES,							0			
123860236	EEOC		JONES,							0			
123860240	EOC		JONES,							0			
123860242	EEOC		JONES,							0			
123870001	BEANS		SANDY, JONES							0			
123870004	PENNY		LANE,							0			

STATUTES=	VII	ADEA	EPA	ADEA/VII	EPA/VII	ADEA/EPA	ADEA/EPA/VII	TOTALS
TOTAL ACTIVE CHARGES=	9	3	2	1	1	0	1	17
RECEIVED THIS MONTH =	3	1	1	0	0	0	0	5

TOTAL ACTIVE CHARGES FOR ENFORCEMENT TEAM = 30

SUBTOTAL BY STAFF = FUNCTION

STATUTES=	VII	ADEA	EPA	ADEA/VII	EPA/VII	ADEA/EPA	ADEA/EPA/VII	TOTALS
TOTAL ACTIVE CHARGES=	9	3	2	1	1	0	1	17
RECEIVED THIS MONTH =	3	1	1	0	0	0	0	5

TOTAL ACTIVE CHARGES FOR 123 = 30

CHARLOTTE DISTRICT OFFICE
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
[illegible] CENTRAL AVENUE
CHARLOTTE, NORTH CAROLINA [illegible]
[illegible]

January 26, 1988

MEMORANDUM:

TO: All Managers and Supervisors
Charlotte District

FROM: R. Edison Elkins
Director

SUBJECT: Participation in the Chairman's Organizational Performance Award for FY 1988

You have received and we have discussed the memorandum from Chairman Clarence Thomas regarding priorities which he has established for the Commission and his intention to set aside "significant" funds to award "those offices which demonstrate extraordinary team efforts and achieve" the goals which have been established for the agency. "Each staff member, regardless of position, will be eligible to share in the award if he or she has made a real contribution to the effort. . . . [E]ach recipient can expect to receive a substantial and meaningful monetary award." Of course, the Charlotte District will be one of those offices recognized by the Chairman for its FY 1988 outstanding team efforts. There are three priorities established for the District:

I. Maintenance of our traditional high quality of case development, investigation, and litigation.

II. Significant reduction in our Average Case Processing Time with virtually no 270 day cases remaining in our end-of-the-year inventory.

III. Inventory Reduction to no more than 20 cases per EOS by COB September 30, 1988.

Achievement of these goals will require team effort not only within each office but between the four offices in the District. As has been our practice in the past year; as needed, we will move cases between offices to better balance Investigator caseloads on a district-wide basis.

All employees, whether in enforcement, legal, or administrative functions, who make significant contributions to achievement of the District's goals will be recognized.

To the extent possible under the agency's orders and procedures, I wish to use the awards funds allocated for this District to reward those employees who contribute most toward meeting or exceeding these FY 1988 office goals.

Outlined below are the criteria which I propose to use in considering and recommending awards to the Investigators:

GENERAL

To be considered eligible for participation in the District's awards program, an Investigator must have no 270 day case in his/her inventory by COB, September 30, 1988, except in the most extraordinary and fully justifiable circumstances. Once an Investigator has met that threshold, under my proposal, awards would be given for exceptional performance as defined in one or more of the three priority areas. An employee doing well in all three areas would be recommended for a larger award than one who performed equally well in one area, but did not excell in the other two areas.

CASE DEVELOPMENT, MANAGEMENT, AND LITIGATION

Employees who make the most significant contributions to the agency's enforcement and litigation program through careful and thorough case development and investigation would be appropriately rewarded.

PROCESSING TIME

Persons who have appropriately resolved all pre-1/6/88 charges in their inventory would be considered for participation the district's awards program with additional consideration given to:

1) adherence to or surpassing the timeframes established district-wide (see related memorandum dated January 26 on the subject of resolution of pre-1/6/88 charges);

2) the employee's average case processing time for the year vs the district's average Investigator case processing time;

3) improvement over the employee's FY 1987 case processing time; and

4) the average case processing time in the fourth quarter (i.e. did the employee gradually and continually reduce his/her processing time during the year--this will provide appropriate recognition for employees who complete oldest charges first and bring their processing time down by the end of the year.);

5) the average age of the employee's active inventory at the end of the fiscal year.

INVENTORY REDUCTION

Any employee who with minimum supervisory intervention contributes to the reduction of the District's inventory by appropriately resolving 85 or more charges, while at the same time participating on a equitable basis in the receipt of charges, would be recommended for sharing in the award funds allocated for this office in proportion to the number of resolutions, i.e., the larger the number of appropriate closures, the larger the employee's share of any funds provided the Charlotte District. Appropriate consideration will be given to the type of resolution and the amount of work required for closure. To ensure that employees in each of the district's four offices are considered on an equitable basis, the total number of EEOC receipts would be divided by the total of Investigators. Any employee taking more charges than the district average would be given appropriate additional credit for closures.

This memorandum is not intended to establish new performance standards for Investigators. The agency already has performance agreements with such standards in place. Further, as the Charlotte District is one in which GPAR performance ratings will be given to employees on their anniversary dates and the rating period for most employees differ from the period for which the performance awards are given, there may not be a direct tie between FY 88 ratings and FY 88 performance awards.

My purpose is to attempt to define up-front "real contribution" and the criteria which I would like to use for distributing to the Investigative staff whatever awards money is allocated to the District, regardless of individual performance ratings. Your comments and suggestions are welcome.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

JAN 2 8 1988

RECEIVED
JAN 29

MEMORANDUM

TO : Fair Employment Practices Agency System Administrators

FROM : Richard Kashurba, Director for Information Systems Services (ISS)

SUBJECT : Procedures and Schedule for Reload of the National Data Base (NDB)

The latest CDS/FEPA update 2.08.04 corrected problems with the extract and communications programs. Because of those problems, it is necessary for ISS to reload the NDB. Our objective is to complete the entire reload process by April 1, 1988 so that second quarter FY 1988 NDB reports can be provided to Chairman Thomas per his request. The reload will be done according to the schedule provided in the attached instructions. Please send diskettes or tape EXPRESS MAIL to ISS immediately upon completion of NDB extract tasks.

The latest update 2.08.04 (named FEPABASE for the FEPA offices and CDSBASE for EEOC offices) must be loaded on your system prior to doing a NDB extract. If update 2.08.04 is not loaded on your system and operating properly, please call Magaline Turner at Area Code (202) 634-6353 immediately.

Please make this effort a priority in your office. It is imperative that the NDB accurately reflect all local data bases. Call Magaline Turner immediately if there are any problems or questions. Your cooperation is greatly appreciated.

Attachment

cc: John Seal, Management Director
James Troy, Director of Program Operations
FEP Agency Directors
EEOC Field Management Program Directors
EEOC District Office Directors

NCR INSTRUCTIONS FOR NDB RELOAD
SYSTEM SHOULD BE IN MULTI-USER MODE.
ANOTHER USER CANNOT BE LOGGED INTO CDS
(Login as "startup" to enter multi-user mode)

**** !PLEASE! DO THE FOLLOWING AS SOON AS POSSIBLE ****

IA. TO DETERMINE IF YOUR OFFICE WILL PARTICIPATE IN THE NATIONAL DATABASE RELOAD, PLEASE ANSWER THE FOLLOWING QUESTIONS:

1. Do you have Update 2.08.04 successfully loaded on your system?

2. Is your system operational?

3. Have you completed at least 1 normal extract since loading update 2.08.04 ?

If the answer to the above questions is "yes", you should be able to participate in the NDB Reload. Please follow the instructions outlined below. If you have not loaded Update 2.08.04 onto your NCR computer or your system is not operational, please notify the individual listed in Section IC.

IB. TO DETERMINE IF ENOUGH SPACE IS AVAILABLE TO DO A NATIONAL DATABASE EXTRACT.

1. Login as "opsmgr"

2. From the USER SELECTIONS Menu, select 2 - Selected Applications.

3. From the APPLICATION SELECTIONS Menu, select 1 - Charge Tracking System.

4. From the Main Menu, select C - Extract Operations.

5. From the Database Extracts Menu, select A - Extract File Management and Sizes.

6. If the system displays a message that there is enough space available for the extract operations, plan to do the NDB extract described in Part III at the time scheduled for your office.

7. If the system displays a message that there is not enough space available for the extract operations, plan to do a backup of the entire database outlined in Part IV at the time scheduled for your office.

IC. CONTACT ISS. PLEASE CALL MAGALINE TURNER ON (202) 634-6353 OR, FOR EEOC OFFICES, FTS 634-6353 TO INFORM ISS:

1. Whether your office will be participating in the national database reload. If not, what date you will be able to participate, and

2. whether you will be sending ISS a NDB extract or a local database backup.

**** DO NOT DO A NDB EXTRACT (OR BACKUP) UNTIL THE DATE **** SCHEDULED FOR YOUR OFFICE IN PART VIIIIIIIIIIIIIIII ****

Note: Please have ready 2.5 times the number of formatted diskettes used for a local database (LDB) backup.

***** MAKE SURE THE RED LIGHT ON THE DISKETTE DRIVE IS OFF BEFORE REMOVING EACH DISKETTE FROM THE DRIVE. The ***** message to insert the next diskette may appear before ***** the diskette drive is finished copying data.

II. TASKS TO PERFORM PRIOR TO DOING A NATIONAL DATABASE EXTRACT OR LOCAL DATABASE BACKUP.

1. SUSPEND DATA ENTRY!!!

2. Make sure you have successfully transmitted and backed up your last extract and loaded any transfers.

3. Backup the data before doing the extract as follows:
   a. Login as "opsmgr"
   b. From the Main Menu, select 2 - Database Utility
   c. From the Data Base Backup Menu, select B - Backup Database.
   d. Label the diskettes or tape and set aside. DO NOT USE DISKETTES/TAPE FOR ANYTHING ELSE!

IIIA NDB EXTRACT. IF YOU DETERMINED IN PART IB (STEP 6) THAT THERE IS ENOUGH SPACE AVAILABLE FOR THE NDB EXTRACT, DO THE FOLLOWING ACCORDING TO THE SCHEDULE IN PART V.

1. From the Main Menu, select C - Extract Operations.
2. From the Data Base Extracts Menu, select 1 - National Database Extract.

3. The system will verify that there is enough space on the hard disk for the National Database Extract. If enough space is available, the system will prompt for a floppy diskette or streaming tape to backup the national data base extract. Label the tape or diskettes as follows and send EXPRESS MAIL to the address in Part V:

   NDB Extract — Office number
   Date — Vol ___ of ___

4. If you get a message that you need to backup the last normal extract before doing a national database extract, do the following:

   -- Return to the Extract Operations Menu, and select D - Backup Extract Data.
   -- If no extract file exists, then place into the diskette/tape drive the diskette/tape for your last extract backup. Select from the Extract Operations menu, E - RELOAD EXTRACT DATA. Upon completion, select D - BACKUP EXTRACT DATA. You can use the same diskette or tape since you are only backing up what is already on the diskette/tape.

IIIB DO A NORMAL EXTRACT. UPON SUCCESSFUL COMPLETION OF THE NDB EXTRACT, DO A NORMAL EXTRACT AS FOLLOWS: (MAKE SURE YOU DO THIS ON THE SAME DAY AS THE NDB EXTRACT ABOVE.)

1. From the Main Menu, select C - Extract Operations.

2. From the Extract Operations Menu, select B - Normal Extract. Be sure to have the printer on-line. Label the diskettes with the date of the extract.

IVA. BACKUP DATABASE IN LIEU OF NDB EXTRACT. IF YOU DETERMINED IN PART IB (STEP 7) THAT THERE IS NOT ENOUGH SPACE TO DO A NATIONAL DATABASE EXTRACT, DO THE FOLLOWING ACCORDING TO THE SCHEDULE OUTLINED IN PART V.

1. From the Main Menu, select 2 - Database backup
2. From the Database Backup Menu, select B - Backup Database
3. This will backup your entire database. Label the tape or diskettes as follows and send EXPRESS MAIL to the address in Part V:

DB Backup(for NDB Extract) Office number
Date Vol ___ of ___

IVB. DO 2 NORMAL EXTRACTS. The second normal extract will not contain data. It is necessary, however, to make sure the sequence number on your transmission matches those systems doing a NDB extract. DO THE TWO NORMAL EXTRACTS ON THE SAME DAY AS THE DATA BACKUP FOR THE NDB.

V. NDB EXTRACT SCHEDULE. DO NOT DO THE NATIONAL DATABASE EXTRACT OR THE DATABASE BACKUP, WHICHEVER APPLIES, UNTIL THE DATE INDICATED IN THE FOLLOWING SCHEDULE:

Mon. Feb. 8	All FEPAs with 1st digit of office code = 1
Tue. Feb. 9	All FEPAs with 1st digit of office code = 2
Wed. Feb. 10	All FEPAs with 1st digit of office code = 3
Tue. Feb. 16	EEOC District Offices in old region 1
Wed. Feb. 17	EEOC District Offices in old region 2
Thur.Feb. 18	EEOC District Offices in old region 3
Mon. Mar. 7	EEOC Area/Local Offices in old region 1
Tue. Mar. 8	EEOC Area/Local Offices in old region 2
Wed. Mar. 9	EEOC Area/Local Offices in old region 3

Mail the diskettes or tape EXPRESS MAIL to:

EEOC/ISS
2401 E Street N.W.
Room 313
Washington, D.C. 20507
Attn: Omie Saunders

Note: Please write in red on the envelope "DO NOT XRAY"

VI. RESUME DATA ENTRY!!! Upon successful completion of all tasks above you may resume entering data into your local database.

***** DO NOT RESUME YOUR NORMAL EXTRACT SCHEDULE *****
***** UNTIL NOTIFIED BY ISS *****

WEST

No. 116

OFFICE OF PROGRAM OPERATIONS
DIRECTOR'S VERBAL ASSIGNMENT SHEET

ASSIGNMENT DATE: 1/21/88 DUE DATE: 1/29/88

ASSIGNMENT TO: EAST

WEST

SUBJECT: ISS' PROPOSAL FOR FIELD Re: 396 DATA

ISS is planning to send a program for the field to run on thier Local Data Bases to get 396 data. They propose that the filel then reconcile the results against their actual 396 data.

Prepare to discuss with me a counter proposal for the field to send the results to ISS for ISS staff to reconcile.

INSTRUCTIONS: RETURN THIS ASSIGNMENT SHEET WITH YOUR COMPLETED ASSIGNMENT. AN ORIGINAL AND ONE COPY ARE REQUIRED. THE ASSIGNMENT SHEET IS TO BE AFFIXED AS THE TOP COVER AND PLACED IN OPO VERBAL ASSIGNMENT BOX.

QUESTIONS REGARDING THIS ASSIGNMENT SHOULD BE ADDRESSED TO:

/ / SEE JIM TROY FOR FURTHER INSTRUCTIONS

DATE ASSIGNMENT RECEIVED IN THE DIRECTOR"S OFFICE: _____

COMMENTS:

21

1464

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

JAN 29 1988

MEMORANDUM

TO : James Troy
Director
Office of Program Operations

FROM : Jacquelyn J. Shelton
Director
Field Management Programs West

SUBJECT : Verbal Assignment #116
ISS Proposal For Field Re: 396 Data

It is very clear that the ISS proposal to require the field to reconcile manual 396 data with the computerized 396 results is a tremendous burden. Until the ISS computerized 396 forms are tested and are proven to actually work, it could likely result in unnecessary rework for the field in having to repeat the reconciliation task.

In view of relevant history, it is proposed that only a sampling of offices be involved in the initial phase of this test. The initial phase would require those offices to run the computerized 396 program and submit the results to ISS. The offices selected should be those which have experienced success with use of the local data base on the CDS. As such, the data should have a higher degree of credibility. This should facilitate the reconciliation process and more quickly identify flaws in the program itself.

Simultaneous with the submission by the sample offices of the computerized 396 data to ISS, FMP will provide ISS with the manual data to conduct the actual reconciliation. FMP can also assist ISS with this task. After this process is completed for the sample and all the bugs have been worked out, the remaining offices can then be required to run the computerized 396 data. The reconciliation process again should be performed by ISS in conjunction with FMP staff.

The above proposal may not be feasible if the reconciliation process cannot be done without continual contacts with the field offices. However, if a sample is conducted first, it is expected that any problems may be resolved more expeditiously and the overall project completed without major disruption in the field.

UNITY COMMISSION
Washington, D.C. 20507

Office of
General Counsel

RECEIVED
JAN 29 1988
1085

MEMORANDUM

January 29, 1988

TO : District Directors
See Addressees Below

FROM : William H. Ng, Deputy General Counsel
Office of General Counsel

SUBJECT: Temporary Termination of NIH Computer Support

The Office of General Counsel (OGC) must reduce its spending by about 50 percent. To reduce costs at the National Institutes of Health (NIH) computer center, I am requesting that your staffs' activity on this system be terminated by Wednesday, February 3, 1988.

One of the important steps that needs to be taken immediately is to remove your data bases that are on immediate-access storage devices. These data sets can be moved to tape. If your staff has a problem in removing or copying your files, please have them contact an analyst in Research and Analytic Services, OGC, at 634-6251.

Hopefully, the cessation of your computerized analyses will only be temporary. If you develop efficient and cost effective plans for essential projects for the rest of the fiscal year, it should be possible to reinstate your access to NIH.

If would like to discuss the necessity of this drastic step, please call Joseph Donoven at 634-6252.

Addressees:

Atlanta District Office
Birmingham District Office
Charlotte District Office
Dallas District Office
Denver District Office
Indianapolis District Office
Los Angeles District Office
Memphis District Office
Milwaukee District Office
New Orleans District Office
New York District Office
Philadelphia District Office
Phoenix District Office
St. Louis District Office
San Antonio District Office
San Francisco District Office
Seattle District Office

cc: James H. Troy, PO
John Schmelzer, PO-FME
Jacquelyn Shelton, PO-FMW
Sophia Louis, GC

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Office of
General Counsel

MEMORANDUM

January 29, 1988

TO : James H. Troy, Director
Office of Program Operations

FROM : William H. Ng, Deputy General Counsel
Office of General Counsel

SUBJECT: Temporary Termination of NIH Computer Support

The Office of General Counsel (OGC) must reduce its spending by about 50 percent. As OPO staff in Headquarter (Surveys and Systemic) spends about 1/3rd of OGC's computer budget at the National Institutes of Health (NIH), I am requesting that the use of this computer system be terminated by Wednesday, February 3, 1988.

Each of the district offices that do not use the NIH system extensively will be sent a memorandum which will state that the access to NIH will be temporally terminated. The Baltimore, Chicago, Cleveland, Detroit, Houston, and Miami offices will be sent individual memoranda, as these offices use the system to such an extent that the individual circumstances must be addressed.

If any of the Headquarters or District Offices have charge-related or other essential projects on the NIH system, I need to be notified by February 2, 1988 as to what they are and how much they might cost. This date is based on OGC's opportunity to appeal the budget reductions on February 4, 1988.

Hopefully, the cessation of the ongoing and planned computerized analyses will only be temporary. If efficient and cost effective plans for essential projects for the rest of the fiscal year can be developed, it should be possible to reinstate the access to NIH.

Also, as a significant percent of OPO costs are for storing data on online storage devices, which gives immediate access to data, these data bases must be deleted or transferred to tape or tape cartridge. Research and Analytic Services (RAS) will provide both Headquarters and Field Offices with assistance in this area

If would like to discuss the necessity of this drastic step, please call me at 634-6400.

cc: John Schmelzer, PO-FME
Jacquelyn Shelton, PO-FMW
Sophia Lewis, GC

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Office of
General Counsel

MEMORANDUM

January 29, 1988

TO : Ronnie Blumenthal
Systemic Investigations and Individual
Compliance Programs, OPO

FROM : William H. Ng, Deputy General Counsel
Office of General Counsel WHNg

SUBJECT: Temporary Termination of NIH Computer Support

The Office of General Counsel (OGC) must reduce its spending by about 50 percent. As your staff spends about 1/6th of OGC's computer budget at the National Institutes of Health (NIH), I am requesting that your staffs' activity be terminated by Wednesday, February 3, 1988.

If any of the Headquarters or District Offices have charge-related or other essential projects on the NIH system, I need to be notified by February 2, 1988, as to what they are and how much they might cost. This date is based on OGC's opportunity to appeal the budget reductions on February 4, 1988.

Hopefully, the cessation of your computerized analyses will only be temporary. If you develop efficient and cost effective plans for essential projects for the rest of the fiscal year, it should be possible to reinstate your access to NIH.

Also, as about 90 percent of your costs are for storing data on online storage devices, which give you immediate access to your data, you must either delete these data bases or transfer them to tape or tape cartridge.

If would like to discuss the necessity of this drastic step, please call Joseph Donovan at 634-6252. Also, if your staff has a problem in removing data from the computer, please have them contact an analyst in Research and Analytic Services, OGC, at 634-6251.

cc: James H. Troy, PO
Kenneth Kryvoruka, PO-F/L
Way Friedman, PO-I

JOHN -
THIS HAS D.O. IMPACT. WE (SIICP) DOESN'T KEEP TRACK OF DO COMPUTER USE (I ASSUME THE 1/6 FIGURE IS ALL OF OPO.
DONOVAN SAYS OGC COMMITTED TO 20-30% RESOURCES COULD BE DE-COMMITTED IF THE ADMIN PROCESS
Cheers,
Ronnie

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

FEB 1 1988

2FEB3AM 8

MEMORANDUM

TO : District Directors

FROM : John Seal
Management Director

SUBJECT : CDS National Data Base

As you are aware, we are working to complete the National Data Base for CDS in the next few weeks and need your cooperation to successfully complete it. On the 19th of this month and the 10th of every succeeding month we will be running a report from the National Data Base on charge receipts and closures for your offices. Our assumption is that both your CDS Local Data Base and transmissions to the National Data Base are current. Attached for your information is what has been transmitted to the National Data Base from your offices as of February 1, 1988. If there are problems with these numbers that cannot be resolved locally in your offices, please contact Rick Kashurba or Leo Sanchez at FTS 634-7674. We will send you a copy of our report for January after February 19th.

Attachment

cc: District CDS System Administrators
John Schmelzer
Jackie Shelton
Rick Kashurba

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MEMORANDUM

FEB 2 1988

EJS TO: STRYE GUZMAN RUEBEN

TO: : District Area & Local Office Directors

FROM : James Troy, Director
Office of Program Operations

John Seal
Management Director

SUBJECT : 396 Reports

Chairman Thomas has mandated that automated 396 Reports for the second quarter of FY 1988 will be developed from the CDS National Data Base.

The reports will be processed the week of April 18, 1988.

It is critical that your CDS local data base is absolutely correct before these reports are created. To that end, if you have not already done so, you should compare your CDS local data base against a hard inventory of your charge records to ensure the accuracy of your data.

In addition, effective immediately, all offices must have all charge receipts and actions for the previous months entered into their system by the 10th of the following month. Example, the data for February must be entered into your system by March 10th.

District Directors should work with their FEPA's on this effort to ensure their cooperation and participation.

Automated 396 Reports which can be executed from your local data bases have been successfully tested at the Charlotte District Office and will be distributed to you in the next few weeks.

Field offices will also be responsible for submitting the standard 396 Reports for comparison purposes with automated reports. The reports will be analyzed and discrepancies addressed as they are identified. Once discrepancies are minimized, the standard 396 Report will no longer be required.

Any questions should be directed to Richard Kashurba, Director, Information Systems Services, on FTS 634-7674.

cc: Jacqueline Shelton
John Schmelzer,
CDS System Administrators

M2h - Hoo - Inf

UNITED STATES GOVERNMENT
Memorandum

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
MEMPHIS DISTRICT OFFICE

Date: February 2, 1988

TO *William Ng*
Deputy General Counsel

In reply refer to:

FROM *W. S. Graham*
District Director

SUBJECT: *Elimination of Access to the NIH Computer*

This office was informed recently that, due to a budget shortfall, you have decided to eliminate access to the NIH computer. Such a move comes at a particularly bad time for the Memphis District Office. While this office has not made frequent use of NIH in the past, we have recently reestablished connections and began to obtain material. At present, Memphis has two Systemic targets due this year, has made a decision that EEO-1 data should be included in each investigative consideration, and has decided to encourage the use of ADP equipment in data manipulation during the investigative process. Each of these decisions or performance requirements will demand access to the NIH computer. Reviewing the work necessary in targeting and the other activities noted above, Memphis estimates that the office will use five hours per week on line to NIH. Estimated cost for this activity is approximately $300.00 per month, or a total of $2400.00 for the remainder of the year.

Please consider this memorandum as a request to be allowed to continue to use the facilities of the NIH computer for the remainder of this fiscal year.

cc: John Schmeltzer, Director
Field Management Programs - East

TC: WQ - 2/11/88
ADR - JT in Sr Dir (2/9) pointed out that the proposed cut-back of NIH utilization would seriously impair some field Sr's PEEO's - JT to cnfr GC + Dpty GC -

Buy U. S Savings Bonds Regularly on the Payroll Savings Plan

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MEMORANDUM

FEB 4 1980

TO : Jacquelyn Shelton
Field Management Programs - West

: John Schmelzer, Director
Field Management Programs - East

FROM : Richard Kashurba, Director
Information Systems Services

SUBJECT : Quality Reviews of Field Offices

RECEIVED
FEB - 4 1980
1806 JS

As your staff representatives conduct their quality reviews of field offices I would appreciate their assistance in reviewing the Charge Data System (CDS). Specifically, I would like them to address the following areas:

1. Personnel Structure - Is the personnel structure in place in each field office to adequately support CDS?

2. Paperflow - Are effective procedures in place to capture charge information from the different units for CDS?

3. Use of the System - Is CDS fully implemented and being used as intended, as a case management tool?

4. Data Integrity - Is the local data base being kept up to date? What procedures are in place to ensure data integrity?

5. Training - Have the training needs of the office been met to support CDS? If not, what additional training is needed?

6. General Comments - Any comments they may have on the system and on ISS support.

I will be happy to meet with your staff upon their return to discuss their findings.

cc: John Seal
James Troy
Leo Sanchez

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF
THE CHAIRMAN

FEB 5 1988

MEMORANDUM

TO : FEPA Office Directors

FROM : Clarence Thomas
Chairman

SUBJECT : Case Management Reports

Thank you for your participation in implementing the CDS/HERO System in your agencies. I am pleased to report that EEOC will be developing automated case management reports for the second quarter of FY 1988 from the CDS HERO National Data Base.

These reports will be processed during the week of April 18, 1988. As this data will be the basis for information to Congress and other outside groups, it is critical that your CDS/HERO local data base be absolutely correct and current before the reports are generated. To that end, if you have not already done so, please compare your CDS/HERO local data base against the inventory of your charge records to ensure the accuracy of your data.

If you need assistance in this effort, you should contact your EEOC District Director. Once the reports are created, they will be carefully analyzed by our staff and any problems identified will be resolved as quickly as possible.

In order to insure uniformity in reporting and the integrity of the National Data Base, effective immediately all agencies should have all charge receipts and actions for the preceding month entered into their system by the 10th of the current month, e.g. data for January must be entered into your system by February 10, 1988.

Thank you for your continued cooperation and support in this project.

cc: EEOC District Directors

UNITED STATES GOVERNMENT

Memorandum

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
CLEVELAND DISTRICT OFFICE

TO : James Troy, Director
Office of Program Operations

DATE: Feb 8, 1988

In reply refer to:

FROM : Harold Ferguson
District Director H.F.

SUBJECT: ADEA Charges

This memorandum transmits the information requested in your memorandum to District Directors dated January 22, 1988, Subj: Administrative Enforcement - ADEA Charges.

Specifically, on page 2 of that memorandum, we were requested to submit lists containing all charges in which the ADEA statute expired during Fiscal 87 and separately during Fiscal 88.

The results are as follows:

	FY-87	FY-88	Open
ADEA	6	0	0
ADEA/T.VII	5	2	0

Our research of this question indicated three general reasons for statute expiration.

1. Cases containing Title VII allegations where some difficulty was experienced in obtaining evidence, and, where Title VII continued to appear viable.

2. Charges which were in the control of an enforcement team where a new supervisor replaced the former supervisor after some considerable deterioration in the performance of the unit, and, where one investigator (subsequently terminated) had been assigned most of the charges.

3. For some time during Fiscal 87, CDS was not operational, and our local data base was in transit from the N.I.H. Computer to a Personal Computer, for which it took some time for us to adjust to this change. We therefore partially lost our ability to receive timely information on the age of our cases. As a consequence, a great deal of time has been required to overcome these problems. Since December 1987, both CDS and our local data base have been operational, and we expect to be able to avoid similar situations in the future.

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

02/10/1988 11:42 EDUAL EEO.CLE 942 7395 216 9427395 P.32

CLEVELAND DISTRICT OFFICE

FY 87

CHARGE NO.	CHARGING P	RESPONDENT	STATUTE	STATUS	COMMENT
052861306	Thompson	Dalton Industries	ADEA	Closed	These four charges were in the workload of a supervisor who was reassigned to a non-supervisory position in August, 1986. Much of this work done under his supervision had been done with insufficient and/or inappropriate guidance or direction as to case processing priorities, was of very poor quality and required substantial rework. Additionally, most of these charges were assigned to an EOS who was hospitalized in March, 1987 and was subsequently removed from the service. The statute expired for these four charges before the necessary actions could be completed under the new supervisor appointed in December, 1986. These four charges carry a closure date less than 30 days after date of violation, which appears to have happened because of lack of clerical assistance.
052861722	Ford	The Limited	T-7/ADEA	Closed	
052861864	Snipes	Youngstown 76	T-7/ADEA	Closed	
052862338	Magiery	Ohio Dept of Youth	ADEA	Closed	

CLEVELAND DISTRICT OFFICE

		Charge No.	Charging P	Respondent	Issues	Status	Comment
FY 87	1.	[redacted]	Brown	Bayer Securities	ADEA	Closed	Although the statute had expired before we closed considerable effort was expended in an attempt to determine a successor entity to the original respo dent who went out of business prior to the filing of the charge, and the district h[illegible] information th indicates that there was possibly a successor enti
	2.	[redacted]	Rosen	Hairigual	T-7/ADEA	Closed	Case filed under both Title VII and Age. Age determined not to be a factor prior to completion o the evidence under Title VII.
	3.	[redacted]	Rye	Standard Oil	T-7/ADEA	Closed	Charge filed under both Title VII and Age. Charging Party in this case signed a waiver. Case was given on hold by Headquarters due to a conciliation[illegible] Charging Party indicated no interest in age basis and presented additional evidence under Title VII (with the advice of counsel) that he believed would support a cause finding under Title VII.
	4.	[redacted]	Hamilton	Schenck & Wilcox	T-7/ADEA	Closed	
	5.	[redacted]	Hughes	Penn United	ADEA	Closed	This charge was processed along with 8 other charges against the same respondent concerning RIF layoffs beginning around July,1985 through October 1985. This violation date was inadvertently missed. The other 8 cases closed timely.
	6.	[redacted]	Hamilton	General Tire	ADEA	Closed	Charge was filed with only 13 days remaining before statute expiration. Charging Party was counseled about the expiration date. Respondent was contacted and declined settlement under Section 7(d). Attempts to contact charging party prior to the expiration date were unsuccessful.
	7.	[redacted]	Brown	Hill's Dept Store	T-7/ADEA	Closed	These seven charges were in the workload of a supervisor who was reassigned to a non-supervisory position in August, 1986. Much of this work done under his supervision had been done with insufficient and/or inappropriate guidance or direction as to case processing priorities, use of very poor quality and required substantial rework. Additionally, most of these charges were assigned to an EEO who was hospitalized in March, 1987 and was subsequently removed from the service. The statutes expired for these seven charges before the necessary actions could be completed under the new supervisor appointed in December, 1986.
	8.	[redacted]	Hufbhl	The Brown Co	ADEA	Closed	
	9.	[redacted]	Fedorcsin	The Fishin Co	ADEA	Closed	
	10.	[redacted]	Young	Chrysler Corp	ADEA	Closed	
	11.	[redacted]	Young	Professional Food	T-7/ADEA	Closed	
FY 88	12.	[redacted]	Smith	Brentwood Mfg	T-7/ADEA	Closed	
	13.	[redacted]	Hudson	Indianapolis Mill	T-7/ADEA	Closed	

TOTAL P.82

927

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

FEB 11 1988

RECEIVED
FEB 12 1988
1976 JS

MEMORANDUM

TO: John Seal
Management Director

FROM: Richard Kashurba, Director
Information Systems Services

SUBJECT: CDS Implementation Status (Monthly Feedback) Report

We are attaching a current report showing, by exception, specific outstanding CDS problems by office, together with a summary on the status of the National Data Base Upload.

Attachment
cc: John Schmeltzer
Jackie Shelton

CDS IMPLEMENTATION STATUS REPORT

(MONTHLY FEEDBACK REPORT)

AS OF FEBRUARY 10, 1988

1. SUMMARY

AS OF FEBRUARY 10, 66 FEPA OFFICES HAD BEEN LOADED ONTO THE NDB, WITH TWO REMAINING TO BE LOADED. CHARGE TEST DATA FOR THE FILTER PROGRAMS FOR THE REMAINING TWO OFFICES HAS BEEN RECEIVED AND THE PROGRAMS HAVE BEEN SUCCESSFULLY TESTED FOR CHARGE DATA, BUT NOT FOR ACTION/BENEFIT DATA, WHICH HAS NOT BEEN RECEIVED. LETTERS HAVE BEEN SENT TO THE TWO OFFICES REQUESTING THEIR COOPERATION IN FURNISHING THE ADDITIONAL DATA. SCHEDULED COMPLETION DATE FOR THE FILTER PROGRAM IS JUNE 15.
AS OF FEBRUARY 10, THE NDB CONTAINED A TOTAL OF 338,775 CHARGES.

2. EEOC OFFICES WITH SPECIFIC OUTSTANDING PROBLEMS

A NEW CPU WITH A LARGER DISK WAS INSTALLED IN NORFOLK'S MACHINE.

3. NDB UPLOAD

DATA FROM 16 FEPA'S HAS BEEN RECEIVED.

file MAN1

FEB 11 1988

MEMORANDUM

TO: Rick Kashurba, Director
Information System Services

FROM: Lynn Bruner
District Director

SUBJECT: CDS Summary Reports

This responds to your memo of January 25, 1988, on the above subject, in which you state that you will be producing CDS Summary Reports on the 10th of each month. I would like to request that you not produce a Summary Report for the St. Louis Office until we have had the opportunity to update our data base following the serious problems we have had with the hard disk and the new CDS Update Program. It is important that all offices relying upon these reports understand that the production of accurate information is not possible until such time as the problems which presently exist in the new CDS program are corrected. As you are well aware, our MIS has been in Washington for over a week now, working with your people to try to correct these program problems.

I am requesting that we not be required to upload our data, and or that you not create reports, until such time as the program problems have been completed and we have had the opportunity to update our database. It would be a grave disservice to this Office, as well as Headquarters Offices, to provide information which is inaccurate.

Your consideration in this matter is greatly appreciated.

cc: Jackie Shelton
Jim Troy
John Seal

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

February 12, 1988

MEMORANDUM

TO : James H. Troy, Director
Office of Program Operations

FROM : Jacquelyn J. Shelton, Director
Field Management Programs, West

SUBJECT : Bi-Weekly Activity Report - Period Ending 2/12/88

I. Program Activities

Reviewed, processed and cuffed FEPA and TERO vouchers and forwarded to finance for payment.

Attended meeting with Polly Mead, Ron Krueger and OPS staff to outline purpose of QA trip to Seattle. Scope of visit was determined and trip will take place February 15 - 19, 1988.

Held meeting with Ron Krueger, Acting Director, Seattle in lieu of telephone conference. Reminder items were discussed as well as Seattle performance first quarter and expectations on the part of FMP-West in the future.

Sat on a personnel panel responsible for reconstructing a promotion package in which there is a pending grievance.

Participated in Systemic conference call with Seattle and SIICP. Status updates were secured on pending charges and general discussions were held regarding a cause determination approved by the Commission on a large class pattern and practice charge. Remedy is being drafted.

Met with Valerie Olson, Director, Hearings Division, FSP, on the possible transfer of hearings cases from the Seattle district to other offices. The Hearings Division agrees with the proposal which will require further discussion.

Conducted bi-weekly conference call with the Director, Los Angeles District Office. Items of interest and reminders were discussed.

Responded to Chairman, OPO and OCLA controlled correspondence and routine letters of inquiry from the public.

Met with Ben Wilson, EEO Staff, to provide him with a copy of a memorandum from the Director, FMP-West to the District Director, Dallas which clarified certain areas of grievance filed by the District Director.

Met with Bea Fones, Office of Audit, to discuss areas to be covered in the FMP-West review of the St. Louis District scheduled for February 29 - March 4, 1988. The Office of Audit is scheduled to accompany FMP-West team on the review.

In conjunction with the Office of Communication and Legislative Affairs and SIICP, participated in a reenactment of an intake interview on ADEA. The purpose of this effort was for the filming of a documentary to be produced, directed and distributed in London, England. There is currently no age prohibitions in England, however, there may be future plans to enact such legislation. FMP-West's contribution included rewriting script developed by the training division and use of staff as an actor playing the part of a potential charging party.

Conferred with Dwight Smith, Employee Relations Division, concerning the designation of a representative by an employee who received a notice of proposed removal.

Conferred with Acting Director, El Paso and provided an update on additional space for the office. Information provided was verified with Rudy Spruill and Mark Pope, FRMS, Space, Property and Communications Branch.

Briefed Director of Audit on several confidential matters.

Attended monthly meeting with DRP staff to discuss current developments including using DRP files and information on FMP reviews.

Attended meeting to discuss FAA and Systemic goals for inclusion in District Director's Rating Guide.

Reviewed vacancy announcements for GS-13 and GM-15 positions to ensure consistency between positions to be reposted for FMP-West.

Compiled information on new professional hires at the request of the Chief of Staff.

Prepared response approving modification to the Missouri Commission on Human Rights payment schedule.

Followed up on request to change SF 1150 leave record procedures. Records will be sent directly from payroll to the field rather than from payroll to PMS/Headquarters and to the field. Procedural change will eliminate the delay in the field receiving SF 1150s in a timely manner.

Completed briefings and reviews of QA activities in the East.

Conducted bi-weekly conference call with District Director, Indianapolis. Responded to the questions and secured requested information.

FMP-West team composed of Director, Boyce Nolan, Everett Crosson, Ron Crenshaw and Dick McMullen, conducted field review of the Houston District Office February 8 - 12, 1988.

Contaced Mary Stringer and obtained overtime funding for Indianapolis and Louisville.

Obtained budget increase of $7,500 for San Antonio for processing charges transferred from Charlotte and a $5,000 increase for progammatic travel.

II. Pending Decisions

None.

III. Upcoming Activities

Field review of the St. Louis District scheduled for February 29-March 4, 1988.

OPO analyst participating in QA case management visit to Seattle District Office February 15 - 19, 1988.

Finalize closeout reports for FY 87 FEP Agency and TERO contracts.

Develop computerized field staff tracking system.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

FEB 16 1988

MEMORANDUM

TO : EEOC Field Office Directors
FEP Agency Directors
CDS System Administrators
EEOC and FEPA Offices

FROM : Richard Kashurba, Director
Information Systems Services

SUBJECT : Alteration of CDS/HERO Data Bases

During the process of installing FEPA and CDS Base programs on EEOC and FEPA local data bases, we encountered two offices where the structure of the charge file had been altered. Alteration of the charge file caused the update to scramble their data.

In one of these offices, an FEP agency, office management was aware of the alteration; in the other, an EEOC district office, office management was unaware of the alteration. In both cases recovery from the situation was both time-consuming and expensive for ISS and the offices.

Alteration of the CDS/HERO application files is unauthorized.

Updates issued by ISS cannot accommodate even minor file alterations. Every update issued by ISS will install the files in the standard format. Therefore, a small change, such as the inclusion of an extra date field or the changing of an edit type, would cause all data to be offset or garbled upon restoration of the backup data.

Please make every effort to insure that your application files are not altered by protecting your system from unauthorized use.

ISS is attempting to develop some safeguards to prevent these situations from reoccurring. ISS could password protect all application files, but this would prevent you from being able to design your own customized reports.

No other form of safeguard will be fool-proof, therefore, the best way to insure the integrity of your system will continue to be the exercise of adequate system security practices. Additionally, if you have any questions about system modifications you should consult with ISS before changing anything in the system.

cc: John Seal
James Troy
Jacquelyne Shelton
John Schmelzer
Ronnie Blumenthal

RECEIVED
FEB 19 1988
2115

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

February 16, 1988

MEMORANDUM

TO : HERO System Administrators
FEP Agencies

FROM : Richard A. Kashurba, Director
Information Systems Service.

SUBJECT: CDS/HERO Collection Manager Mailing List

We are in the process of updating the centralized CDS/HERO Collection Management Mailing List, based on the information in Attachment A. This pertinent information pertains to all of the System Administrators (SA), Data Entry Operators (DEO), and CDS/HERO equipment in the field.

Please complete and return Attachment (A) by March 4, 1988. This information will enable us to improve communications with your office and ensure that CDS/HERO related matters are acted on in a timely manner.

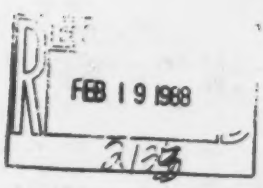
If you have any questions concerning this matter, contact Jim Hall of Information Systems Services' Charge Data Systems Division on 202/634-6353.

cc: Jim Troy, Director
Office of Program Operations

John Schmelzer, Director
Field Management Programs - East

Jacquelyn Shelton, Director
Field Management Programs - West

Ronnie Blumenthal, Director
Systemic Investigations and
Individual Compliance Programs



Attachment (A)

CDS/HERO COLLECTION MANAGER MAILING LIST

Office Name: _____

Office Address: _____
_____
_____
_____

3-Digit EEOC Account Code: _____
(Example: 21A)

System Administrator:
Name: _____
Phone #: _____

Data Entry Operator:
Name: _____
Phone #: _____

NCR Codar Modem Phone #: _____
(Dial In Number - Port A)

CDS/HERO Modem Phone #: _____
(Dial Out Number - Port 5)

Size of Hard Disk (Megabytes): Circle one -

25 46 85 140

Please complete and return this form to the following address by March 4, 1988:

Equal Employment Opportunity Commission
2401 "E" Street, N. W., Suite 313
Washington, D.C. 20507
Attn: Jim Hall

UNITED STATES GOVERNMENT

Memorandum

BIRMINGHAM DISTRICT OFFICE
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
2121 8TH AVE., NORTH, EIGHTH FLOOR
BIRMINGHAM, ALABAMA 35203-2397

TO : John Schmelzer, Director
Field Management East

DATE: February 22, 1988

In reply refer to:

FROM : George Frank Jordan
District Director GFJ

SUBJECT: Problems Associated with the Charge Data System

Attached is a memorandum from the District's Management Information Specialist addressing the matter we discussed this morning. Upon receipt of this memorandum, please telephone me.

BUY U.S. SAVINGS BONDS REGULARLY ON THE PAYROLL SAVINGS PLAN

02/22/1988 12:38 B'HAM DISTRICT OFFICE 205 731 2181 P.01

UNITED STATES GOVERNMENT

Memorandum

BIRMINGHAM DISTRICT OFFICE
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
[illegible] 9TH AVE., NORTH, EIGHTH FLOOR
[illegible], ALABAMA [illegible]

TO : George Frank Jordan
District Director

DATE: February 22, 1988

In reply refer to:

FROM : Iris C. Elon ICE
Management Information Specialist

SUBJECT: Problems Associated with the Charge Data System

This memorandum is to alert you to the amount of data that was lost during our recent problems with the CDS system. As stated in the memorandum dated January 8, 1988, during the installation of the CDSBASE update, our data was misaligned. While Ken White of Nexus was correcting the problems, approximately 1400 records were lost on January 22, 1988.

Hazel Lyons and I re-entered approximately 300 charges and experienced other problems. On January 28, 1988, backup diskettes of our database were forwarded to Roberta Hale of ISS, at her request. Upon receipt and loading of the corrected diskettes of our database as of December 31, 1987, on February 16, 1988, we found that 1,325 charges were lost. Each charge has at least three actions that were also lost. We are in the process of re-entering the lost data.

Before these problems occurred we were up to date as of December, 31, 1987, including charges and actions. Because we were not able to use the Charge Data System from January 4, 1988, there is a six-week backlog of charges and actions to be entered into the system.

BUY U.S. SAVINGS BONDS REGULARLY ON THE PAYROLL SAVINGS PLAN

02/22/1988 12:38 B'HAM DISTRICT OFFICE 205 731 2101 P.02
02/22/1988

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

February 25, 1988

RECEIVED
FEB 29 1988
2339 JS

MEMORANDUM

TO : Johnny J. Butler, Director
Philadelphia, District Office

FROM : Richard A. Kashurba, Director
Information Systems Services

SUBJECT: NDB Extract Extension

Due to the technical complications involved in extracting your local data base for the National Data Base (NDB) upload, we have extended the time for you to complete your extract till March 14, 1988.

If you have any questions concerning this matter, please contact me on FTS 634-7674.

cc: John Seal
Jim Troy
John Schmelzer

February 25, 1988

MEMORANDUM

TO : Johnny J. Butler, Director
Philadelphia, District Office

FROM : Richard A. Kashurba, Director
Information Systems Services

SUBJECT: NDB Extract Extension

Due to the technical complications involved in extracting your local data base for the National Data Base (NDB) upload, we have extended the time for you to complete your extract till March 14, 1988.

If you have any questions concerning this matter, please contact me on FTS 634-7674.

cc: John Seal
Jim Troy
John Schmelzer

CONCURS								
CONC			2/25/88					
LAST NAME			Sanchez					

UNITED STATES OF AMERICA
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
PHOENIX DISTRICT OFFICE
WELLS FARGO BUILDING, SUITE 330
4520 NORTH CENTRAL AVENUE
PHOENIX, ARIZONA 85012-1848

February 25,1988

MEMORANDUM

TO: Jacqueline Shelton, Director
Field Management Programs - West

FROM: Hermán R. Gloria, Director
Phoenix District Office

SUBJECT: FEPA Problems with HERO

I would like to bring to your attention several concerns that should be aired at the upcoming Conference in Dallas. My main concern is over the plans to make implementation of HERO a condition of awarding contracts to FEPAs in FY 1989. EEOC may be in a very poor position to impose a "poor" system on FEPAs, and we may lose contract disputes as well as raise congressional questions about our problems with HERO and CDS. We are trying to impose a system whose design ignored existing working data systems that many of the FEPAs already had. In addition we imposed a system that is incompatible with the majority of the equipment in FEPAs and EEOC field offices. There is no inherent advantage or selling point for HERO that can make it attractive for use by the FEPAs. My second main concern is over HERO/CDS design limitations that continue to impede the flow of information between District Offices and their FEPAs.These problems that raise serious questions as to the ability of the system to meet its design objectives to automate the deferral process, and reduce the paperwork load we now have.My final concern is the apparent lack of interest by OPO for the consequences of denying contracts to FEPAS on (1) the deferral process requirements under Title VII,(2) the major impact on the present orderly worksharing contracts, and (3)the resulting increase in EEOC workload if FEPAs defer their Title VII work to the field offices.

I should point out that my comments are based on a full year of experience with both HERO and CDS with our 3 FEPAs. Problems listed below have been recurring throughout this period, and some of them are not readily solvable. However, I am also listing some possible solutions as well, since I am concerned that we still do not have the data management and information system that EEOC must have to carry out our mission of enforcement.

HERO/CDS PROBLEMS

I. Hardware & Operating System.-

- Both UNIX and NCR equipment are incompatible with other existing systems in place in EEOC and FEPAs. This causes severe support and learning problems for all users.

- There have been severe equipment problems which do not seem to diminish, which in turn have caused major problems for EEOC resources that provide support. Both HERO and CDS have had problems with the CPU, monitors, hard disks, and modems.The system has not yet been fully operational on a consistent basis. The field offices have been burdened with trying to provide support in an area where we have very little expertise.

- Current hardware is limited in both speed and memory capacity. The system does not meet the original design requirements to provide a true multitask/multiuser system. This raises serious questions as to the need for continuing to use UNIX. The lack of speed is a serious problem for system users and for data transfer to the National Data Base.

II. System Design and Software Problems.-

* The basic design of the transaction manager system is faulty. It creates major problems in data transfer and information sharing between FEPAs , District, Area, and Local offices. It further creates the need for constant downloading to the national data base in order to keep the local data bases current and accurate, a need that should be addressed at the District level.

* The software is not user friendly, and is very difficult to program. It is outdated, and does not provide a true data base management system. Its lack of query capability makes it akward to use for case tracking and management. The FILEPRO report generator is fundamentally too slow because of the slow search routines imposed on it by UNIX. The software problem is further compounded by the very difficult programming routines required to create reports for management use.

* System utilities are still not adequate, particularly in providing useful routines for correcting data entry errors and for debugging and tracking. The system does not have any real tally procedures that can be used for quality control, and it lacks global correction procedures.

* System download procedures are still not fully functional. The "Extract" routines are slow and unreliable, and must be continually monitored. Due to memory limitations, these routines can be a serious problem that require the user to carry out cumbersome procedures to compensate for poor design. As noted earlier, the basic design is faulty in denying District Offices direct access to their Area and Local offices and their FEPAs by forcing all data to be routed through the Transaction Manager at Headquaerters. This design flaw totally ignores the deferral process, and the system lacks source codes to designate charges that are deferred between EEOC and FEPAs. As a result the 396 report for the charge receipt process cannot be generated accurately without an immediate code change and data base corrections.

III. Resource Problems.-

As a result of the above listed system,hardware, and design problems, both HERO and CDS require users to assign fulltime dedicated staff just to try and keep the system data base as current and accurate as possible. This is major problem for small offices and FEPAs, and recent cuts in contracts have only compounded the problem. The software is not "user friendly", and coping with clerical turnover and training is also a major problem. Because the present HERO system is not compatible with FEPA ADP systems, the usual support provided to FEPAs is not available. Very few state agencies are now familiar with UNIX systems, FILEPRO, and "C" Programming languages.

IV. Recommendations.-

There are three basic approaches to resolving the HERO/CDS problems. One involves a least-cost approach with no change to the HERO system, but a change in its use. The second approach would be to junk the present software and develop a modified HERO/CDS system that is closer to the original design goals. The third and most radical approach would be to junk both software and hardware, and design a new system that will meet the design requirements fo EEOC and FEPAs.

Approach 1a. - Remove the HERO system from FEPAs, and have EEOC offices to input both EEOC and FEPA data into CDS and the national data base. We would continue to use the present paper reporting systems for deferral and contract credits as the source for the HERO data. FEPAs would use their present internal systems for data management. The NCR hardware would be returned to EEOC for use in their area and local offices.

Approach 1b. - Provide as part of contract funding to FEPas enough resources to hire "Kelly" girls to provide data entry needed for HERO. The only redesign for HERO would be to junk the transaction manager, and provide direct transfer of data between District Offices and FEPAs. FEPAs would use their local internal systems for data management, or EEOC could provide system reports to FEPAs for the same purpose.

Approach 2. - Junk FILEPRO and replace with a true SQL/DBMS that is compatible with UNIX and existing NCR hardware. The basic requirement would be to acquire "user friendly" software that can be easily modified for mainframe access. The system would require improvements and rethinking as to the national data base and direct data transfer between EEOC and FEPAs.

Approach 3a. - Junk entire system and replace with an IBM or DEC system using VAX or SNA. The basic requirement for software is for a true SQL/DBMS that is "user friendly".

Approach 3b. - Junk entire system and replace with PC/DOS or PC/OS2 hardware using LAN or Gateway systems to link FEPAs and EEOC with each other and with national data base. Software requirements would be the same as in 3a.

My personal recommendation would be Approach #3, but I recognize that budget limitations would forestall any immediate action. To resolve my concern over the iomposition of the present HERO on the FEPAs, Approach 1b may be the interim solution for FY 89, with a commitment from EEOC to correct the problems of the present system by adopting either Approach 2 or 3. Until we bite the bullet and admit the the present system is not adequate, we will continue to limit our capabilities and waste our resources. This proposal was made to OPO a year ago, and it is frustrating to me personally to be faced with continuing problems that impact the operation of my District Office without any apparent concern or response from OPO and ISS.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

February 26, 1988

MEMORANDUM

TO : James H. Troy, Director
Office of Program Operations

FROM : Jacquelyn J. Shelton, Director
Field Management Programs, West

SUBJECT : Bi-Weekly Activity Report - Period Ending 2/26/88

I. Program Activities

Worked with Employee Relations on response to request for extension from attorney for an employee of the El Paso Area Office, to answer a Notice of Proposal to Remove.

Conferred with an employee of the Dallas District Office concerning her failure to receive a retroactive pay increase brought about by a special clerical step increase allowed by OPM in certain areas across the country. This employee also failed to receive a pay adjustment after opting for a less costly health insurance plan. Adjustment and pay increase will be reflected in employee's check of March 9, 1988.

Conferred with personnel regarding status of certificate for Oklahoma City Area Director and PMS position in Dallas. Both are still pending further action.

Conferred with three charging parties. Arranged for the Dallas Office Deputy Director to meet with one because of the severity of his allegations against members of the Dallas District Office and certain alleged tape recordings he had in his possession which he claimed proved misconduct. Meeting held but allegations proved to be frivolous.

Held meeting with team members to discuss strategy to be used in upcoming review of the St. Louis and Kansas City offices.

Conferred with Joe Neckere and Doris Werwie concerning availability of Geneva Smith to assist with the ADEA project being performed by the OPO Director.

Provided clarity to the Dallas District Director concerning the transfer of the Campbell Soup case to headquarters for completion.

Spoke with Phil Sklover regarding a confidential matter concerning an attorney in the Dallas District Office.

Conferred with the Director of Audit concerning certain confidential matters in a western field office.

Met with SIICP to update systemic goals for each district and Program Analysts in East to finalize all goals.

Met with the Director, LMR to formulate counter proposal to union regarding an amendment to Sec. 22.1@ of the CBA. Union response to proposal was favorable and no problems are anticipated.

Bi-weekly conference calls held with Chicago, Milwaukee, San Antonio, Los Angeles, and St. Louis District Offices.

Discussed computation of back-pay for employee of the Phoenix District Office with Sam Dean. PMS is working with the Phoenix office to ensure that all necessary information is received.

Held various meetings to finalize draft of the SES rating guide. Received input from the Program Director and will submit final version to him for approval.

Met with committee to finalize issues to be presented at the hearing on minorities and women.

Responded to controlled correspondence.

Met with Mary Stringer regarding overtime request for the St. Louis District Office. Request was approved and follow up will take place when conducting review.

Received clarification from Barbara Dunn, Procurement Management, regarding a St. Louis request for a copying contract to handle FOIA and Section 83 requests. Provided procedural guidelines to District Director.

Worked with Lynn Bruner and Geneva Smith in preparing for the quality review of the St. Louis District.

Spoke with a potential charging party referred by the NAACP regarding her inability to qualify for a nurse's position. Advised her of her rights and referred her to the Kansas City Area Office.

Reviewed, processed and cuffed FEPA and TERO vouchers and forwarded to finance for payment.

Discussed and provided guidance to Denver and San Francisco regarding crediting FEPAs for activities reportedly completed under contract. Provided guidance on how to effectuate day-to-day crediting of final actions submissions.

Discussed San Francisco District Office financial and space needs with staff of FPMS. San Francisco was provided with all monetary resources requested. Space needs are generally to be acceded to as requested.

Reviewed Prosentation Memorandum for Director, FMP-West. P.M. was positively presented.

Reviewed applications of new hires and transmitted copies of same to Pam Talkin, Chief of Staff.

Requested additional funds for Indianapolis and such funds were approved by budget.

Conducted debriefing with team members of onsite review of Houston District Office. Discussed identified problems and recommendations to resolve those problems where appropriate. Began preparation of written report.

Completed Director's Verbal Assignment to convert existing EOA slots from professional to clerical designation on the OPO Authorization form. Completed corrections to revised authorization forms.

Prepared memorandum to district directors to request that future staffing patterns list all authorized positions, including vacancies, and that a summary report be incorporated to show the count of compliance and legal professional and clerical staff on board, as well as vacant positions.

Prepared outline of responses to GAO's request for information on the "EEOC/FEPA Working Relationship"; met with Bea Rivers to discuss responses to the GAO request. As a result of meeting, contacted Director of Office of Audit to find out what additional information or comments were needed more than those provided already by the State and Local Branch. Bill Miller requested that further comments be saved for a meeting to be scheduled before the February 26, 1988, meeting with GAO.

Developed list of all vacancies in Houston and Chicago District Offices.

Contacted Directors of Chicago and Houston offices to obtain their comments on Chairman's request to OPM to convert EOSs to Investigator classification.

Provided information to Atlanta office staff about FY 83 contracts with the Georgia and Richmond County FEPAs; information was needed to respond to an inquiry from GAO.

Provided technical assistance to Chicago State and Local Coordinator about granting contract credit to Illinois FEPA for failure to cooperate closures when such closures are completed without the necessary CP contacts, and whether EEOC should accept such closures for credit. Advised that credit should not be given, and EEOC should process to completion.

Inquired of Compliance Programs Branch whether guidance would be issued regarding procedures for EEOC's processing of ADEA charges that are very near the two year statute expiration date when FEPAs transmit such charges for EEOC to process just before the expiration date. Informed that guidance would be issued in Field Notes in the near future.

Conducted bi-weekly conference call in person with Chicago District Director. Director suggested to FMP-West that the issue of ADEA referrals from FEPAs to EEOC just before the expiration of the two year statute needs to be addressed. In addition, Director will be meeting with the Director of the Illinois Civil Rights Commission to discuss the possibility for charge resolution contract funding in tandem with existing contract with Illinois Department of Human Rights.

Developed and prepared files for SES evaluations of Chicago and Houston District Directors.

Began draft of guidance memo to Program Analysts for completing FY 87 FEPA contract closeout reports.

Participated in Quality Assurance visit to the Seattle District Office during the week of February 15, 1988. Briefed Director, FMP-West on results of trip.

Met with Ivan Ashley regarding the space design for FMPs for new building location. Met with Truman Harris to draft initial floor plans(s) for comment by directors, FMP. Final layout will be done by architect.

Had several discussions with a charging party from Nevada who was dissatisfied with the processing of a retaliation charge filed with the Nevada Equal Rights Commission. EEOC will process the charge.

Met with Employment and Classification Division staff regarding filing vacancies in Field Management Programs-West.

Met with staff of Employee Relations Division to discuss current personnel issues in field offices.

Met with Linda Henson, SDTD, regarding case management development.

Met with OPS staff, Jim Troy and John Schmelzer to discuss proposed case management systems for the field.

Met with the Chairman, Jim Troy, John Schmelzer, and Pam Talkin to discuss pending matters in Field Management Programs.

Attended OPO Senior Staff meeting.

Met with Ronnie Blumenthal and members of her staff to discuss preparation for State and Local Conference.

Met with Gloria Underwood regarding her detail to the Denver District Office.

II. Pending Decisions/Matters

Several personnel matters from the field.

Transfers of cases between field offices.

Review of Pending Inventory listings from field offices.

III. Upcoming Activities

Finalize closeout reports for FY 87 FEP Agency and TERO contracts.

Develop computerized field staff tracking system for FMP-West.

Finalize Houston Trip Report.

Attend State and Local Conference in Dallas, March 14 - 18, 1988.

Conduct Quality Review of the St. Louis District February 29-March 4, 1988.

March 3, 1988

To . Whit Walker

From : Ralph Soto

Sub : Det o.t Audit Report/Supplement

State & Local Funct on:

I. Charge File Rev.ews

A tota of 14 cha ge files invo.v.ng six reviews for other than accepted charge resolutions and n.ne substantia weight reviews, were examined Although there is evidence that the quality of .eviews, by the District Office has improved since our July 1986 audit, four f les were noted in which the evidence of record did not support the recommended EEOC action. The following substantive problems were noted.

a. Under specified circumstances section 4 of EEOC Order 916, appendix A authorizes the District Office to award an FEPA contract credit even though EEOC is not accepting an FEPA final finding. One of the requirements cited in section 4(I)(D) (E), and (F) is the completion of a "substantial investigation" by the FEPA Appendix A, howeve , fails to define the te m with any degree of precision. The State & Local Coordinators Handbook, nevertheless provides that, "A substantial .nvestigation has been completed when an investigator's memorandum could be written from the documentation in the file, with litt.e or no further work" (emphasis added). Presumably, therefore, in order to receive credit the FEPA file, in most instances, should contain documents which describe:

1. the relevant policy and practice being examined;

2. how the charging party was treated in accordance with respondent's stated po.icy and observed practice; and

3 how the similarly situated persons were treated in accordance w.th respondent s stated policy and observed practice

In our examination of the six files falling in this category, two were noted in which contract credit was granted even though it was not evident that an investigator s memo andum could be w. tten from the documentation in the file, with little or no additional work.

In charge numbers 054-85-2844 and 23A-87 2709, both involving discharge allegations, the documents submitted by the FEPA failed to describe respondents disciplinary policy and practice and evidenced no examination of respondent s treatment of comparatives under similar circumstances.

b. Substantive problems were also noted in two of the nine substantial weight reviews examined.

In charge number 054-83-5106, the FEPA issued and EEOC accepted a no cause finding. The charging party, a supervisor, alleged she was terminated because of her sex. Specifically, she stated that she was terminated subsequent to an incident in which an hourly male employee subjected her to verbal and physical abuse. An examination of the documents provide by the FEPA indicates that:

1. respondent stated it does not have a formal disciplinary policy for supervisors;

2. other than obtaining the names of five supervisors who were allegedly terminated, respondent's disciplinary practices, as they relate to supervisory staff, were not investigated;

3. other than the above mentioned names, no comparative data involving supervisory staff was obtained;

4. although respondent maintains a progressive disciplinary policy for hourly employees, respondent admits it does not follow it; and

5. the male employee who battered the charging party was placed on probation for six months.

In charge number 230-86-4735, the FEPA dismissed and the District Office accepted the FEPA dismissal of the charge as being untimely filed. The charge was filed on September 9, 1986 and involved a recall issue. The respondent alleged that the charge was untimely filed because the charging party lost his recall rights on June 25, 1985. However, the charging party alleged that he did not become aware of his lost recall rights until June of 1986. An examination of the file discloses no evidence which resolves the dispute in favor of one or the other party. It appears that the FEPA simply decided to credit respondent's position without examining the issue to ascertain if it is respondent's practices to notify employees of the expiration of their recall rights and if, in fact, the charging party received such notification.

II. Case/Workload Management

Our review of charge files raised a number of questions which lead to an examination of the Office's standard operating procedures. Specifically, in examining the FEPA no cause recommendation in file number 054-83-5106 referenced above, the absence of supporting documentation lead to an interview with the State & Local Coordinator to inquire on what basis acceptance of the FEPA finding was recommended and approved by her immediate supervisor. During this interview we were informed that upon receipt of the FEPA Charge List, EEOC Form 472, the Coordinator reviews the list to identify the charges which require substantial weight reviews. The Coordinator then contacts the FEPA and arranges a visit the FEPA to review the files requiring a substantial weight review. Once the files are reviewed, the Coordinator prepares a review form (i.e., EEOC Form 214 or 215) recommending acceptance or rejection of the FEPA finding and upon returning to the Office places the form in the EEOC file which contains little or no substantive information, which then, presumably, goes to the approving official for review.

In exploring the effects of these procedures the following is evident.

a. Because the FEPA is not identifying its final finding submissions as either Certified or Substantial Weight reviews, additional work has been created for the State & Local Coordinator. Since the specific file documents to be submitted by an FEPA depend in part on the type of submission (i.e., certified versus substantial weight) and District Office reporting requirements dictate a separation of certified and substantial weight review statistics, the Charge List was designed to require the separation of certified reviews from substantial weight reviews (see EEOC Form 472 which contains a check off for certified charges and substantial weight review charges and contains the instruction "Check One Per Page").

b. Further, existing agreements between the District Office and the FEPA which require the Coordinator to review the FEPA files on site, are not only adding to the Coordinator's already heavy workload, but also act to circumvent an effective a second level review by District Office management. Since the EEOC files do not contain copies of relevant documents obtained in the FEPA investigation, there is precious little information in the file on which the Approving Official can base his concurrence or nonconcurrence with the recommended action. In the case in question, we asked the Coordinator to provide us with documents form the FEPA file to determine if our initial assessment of the case was correct. Our review of this supplemental information confirmed that the FEPA investigation failed to effectively examine respondent's disciplinary policies and practices, and failed to obtain appropriate comparative data.

In our review of FEPA charge lists, it was also noted that the manner and substance of the information recorded thereon would make it exceedingly difficult to use these as source documents for the preparation of EEOC Monthly Statistical Reports (i.e., EEOC Form 471). Consequently, we asked the Coordinator to provide us with copies of records used to complete the Monthly Statistical reports and we learned that two additional types of reports have been created. The first reflects acceptances of certified and substantial weight reviews and the second reflects acceptances for other than accepted charge resolutions. Therefore, in order to complete monthly statistical reports, the Coordinator creates two additional sets of reports and then must review and consolidate the information in three separate sets of documents. This additional work is unnecessary. If the Charge Lists are properly prepared by the FEPA (i.e., separating certified and substantial weight reviews) and reflect all submissions for a given period (i.e., final actions as well as submissions for other than accepted charge resolutions), the Coordinator can track EEOC's action by noting "accepted" or "rejected" on the last column of the Charge List with the corresponding date next to each action. The Coordinator would then have the needed information for preparing the Monthly Statistical Report, without having to create two additional reports.

Our charge file reviews also disclosed a substantial number of cases which, although reviewed in early January, did not contain closure documents. We were informed that there was approximately a three month time lapse from the time an FEPA submission is received to the time the necessary documents are issued. At the time of our review there were 445 FEPA final actions received which had not been reviewed and 988 final actions which had been reviewed, but the preparation and mailing of the closure documents was still pending. It is evident that additional clerical and professional support is needed in order to maintain an efficient State & Local program.

We also examined the open deferral files in records control and found that currently there is no system in place for monitoring the expiration of the statute of limitations for ADEA deferral charges. Although ADEA deferral charges are maintained in a separate file cabinet, of some 350 files contained therein, we counted one charge filed in FY 1981, one charge filed in FY 1985, 45 charges filed in FY 1986, and 241 charges filed in FY 1987. This is problematic for two reasons. First the Commission must take all reasonable actions to assure that charging parties are notified of their private suit rights prior to the expiration of the statute of limitations. Second, EEOC Order 916, appendix C, indicates that one prerequisite to contract payment for the processing of an ADEA charge is that the FEPA complete its processing of the charge within 18 months of the alleged violation. Therefore, <u>any ADEA deferral charge in which the 18 month period has expired is no longer eligible for contract payment</u>.

Additionally, we noted that Title VII and Title VII/ADEA concurrent charges ranging as far back as FY 1976 were mixed together. When we inquired as to the last time a hard inventory of these charges was made, we were informed that it has been approximately three or four years.

III. Recommendations

1. We suggest that the District Office, in accordance with available guidance, prepare a memorandum outlining the circumstances under which it will grant credit for other than accepted charge resolutions under section 4 of EEOC Order 916 (note: this would also apply to ADEA "other credit" reviews under section 4 of appendix C). This information should be communicated to local professional staff involved in the function and appropriate FEPA staff.

2. Discussions should be held with the appropriate FEPA representative to secure the following:

   a. an agreement that it will provide the all of the charge list information in the manner outlined in this report (i.e., separating out Title VII substantial weight review final action submissions and submissions for other than accepted charge resolutions, from Title VII certified submissions) and consistent with the requirements of EEOC Order 916; and

   b. an agreement that the FEPA will submit to EEOC copies of the required closure documents on all final closure actions and submissions for other than accepted charge resolutions, thereby eliminating the need for routine on-site reviews by EEOC staff and assuring that EEOC files contain the information necessary for a substantive second level review by the EEOC Approving Official.

3. For each FEPA submission reviewed, the State & Local Coordinator and/or other professional staff reviewing FEPA submissions, should mark the last column of the Charge List indicating the EEOC action taken (i.e., accepted or rejected) and the corresponding date, thereby eliminating the need for the creation of additional reports.

4. The District Director should prepare a plan which outlines what actions will be taken to assure adequate trained professional and clerical support to the State & Local function.

5. The Director should establish and implement a system for monitoring the statute of limitations on all ADEA charges and to assure that appropriate notice letters are issued to charging parties informing them of their private suit rights prior to the expiration of the statute. Additionally, any ADEA charge in which the FEPA has not submitted a final finding within 18 months of the date of the alleged violation should be flagged so that contract payment is not granted and reviewed to determine whether processing can be completed within the applicable statutory time period. If it is determined that the investigation in a given charge cannot be completed prior to the expiration of the statute of limitations and the available data collected by the FEPA and EEOC is either insufficient to support a cause determination or indicates that a complete investigation would probably result in a no cause determination, then a final attempt to conciliate the charge should be made. If this final attempt to conciliate is unsuccessful, the charge should be dismissed by the District Office as a 7(d) dismissal as far in advance as possible of the expiration of the statutory time for filing in court.

6. A phased inventory beginning with the oldest deferral charges should be coordinated with the FEPA to determine the status of all deferral charges. Any charges which the FEPA reports that it is not processing and will not process (i.e., either because it has no record of the charges being filed or FEPA records indicate that the files have been destroyed, etc.) should immediately be transferred to the Enforcement function for processing.

Hearings Function:

A review of first quarter data in the Hearings function indicates that if a consistent effort is maintained throughout the year, FY 1988 goals will be exceeded. Specifically, first quarter data reflects the following:

	Goal	Performance Range
a.	270 Day Inventory	0% (Outstanding)
b.	Average Production Per A.J. 1/	77 (Highly Effective)
c.	Average Processing Days 2/	70 (Outstanding)

During our visit, we were informed that the Houston Office had requested that the 25 cases previously scheduled to be transferred from your Office remain in the Detroit Office for processing. Considering that your first quarter receipts are down by 54.7 percent over the same period in FY 1987 and that first quarter data reflects a 9.8 percent reduction in Hearings inventory, the retention of these 25 cases by your Office would appear to be both appropriate and necessary.

Compliance Case/Workload Management - (Complete text to be prepared by Whit Walker)

(Insert)

Our review reflects that the Office does not have an effective system for monitoring the expiration of the statute of limitations on ADEA charges. At our request, the Office prepared a computer printout of ADEA charges, which indicates that as of February 23, 1988 there were 72 charges in which the two year statute had expired. In ten of the charges listed the three year statute had either expired or was within approximately two months of expiring, with the oldest charge surpassing the five year mark. Although we recognize that over half of the charges listed were transferred from the Kansas City Area Office, we also note that the listing does not reflect the age of the Office's ADEA concurrent charges, and therefore, is incomplete.

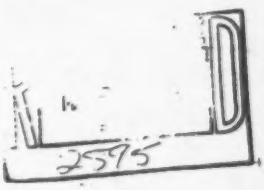
1/ Note: This reflects an annualized projection based on the number of professional slots allocated to the function, adjusted by a minus .33 slots to account for the performance of administrative functions and further reduced by 10 percent to account for staff unavailability throughout the year.

2/ Average processing days from the date the Hearing is completed to the date a recommended decision is issued to the Federal Agency.

Jacqueline Thomas

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MAR - 9 1989



MEMORANDUM

TO : EEOC Area/Local Office
System Administrators

FROM : Richard Kashurba, Director
Information Systems Services (ISS)

SUBJECT : CDSBASE Update 2.08.04 and Reload of the National Database (NDB)

Enclosed is media for installing Update 2.08.04 which is called CDSBASE on your IBM/XT system. Attached are: (1) instructions for installing update 2.08.04, (2) procedures and schedule for reload of the NDB, and (3) instructions for installing and loading the external tape unit for the IBM/XT. If your external tape unit is not installed, proceed with the instructions for loading the update and doing the NDB extract first. The software needs to be installed as soon as possible upon receipt. Please notify Magaline Turner of ISS on FTS 634-6353 if you have any problems.

Update 2.08.04 provides several improvements to the system. The software contains the most recent version of Runtime Filepro and a complete package of local data base programs. The update is designed to correct extract and communications processes which have caused problems with respect to charge transfers and updates to the national data base. The corrections, for the most part, will be invisible to you. Installation of the software will, however, cause all charges previously transferred incorrectly to be retransmitted. This is an effort to improve integrity of data both at the local and national levels. The update also contains ten new action codes which can be entered from Screen B or the Rapid Direct Entry screen in the Add Action File. These codes are for the purpose of tracking charge activity in relation to the Decision Review Program. These codes and several other action code changes and their definitions are shown on the attached Action Code Addendum.

Because of problems with the extract and communications programs, it is necessary for ISS to reload the NDB. Our objective is to complete the entire reload process by April 1, 1988 so that second quarter FY1988 NDB reports can be provided to Chairman Thomas per his request. The reload will be done according to the schedule provided in the attached NDB Reload instructions. Please send diskettes EXPRESS MAIL to ISS immediately upon completion of NDB extract tasks. Update 2.08.04 must be loaded on your system prior to doing a NDB extract.

Please make this effort a priority in your office. It is imperative that the NDB accurately reflect all local data bases. Call Magaline Turner immediately if there are any problems or questions. Your cooperation is greatly appreciated.

Enclosure
Attachments

cc: John Seal, Management Director
James Troy, Director of Program Operations
EEOC Field Management Program Directors
EEOC District Office Directors

ACTION CODE ADDENDUM

New Code Descriptions

Action Codes

D7 Charge file sent to Headquarters, Guidance Division, Office of Legal Counsel

D8 Charge file returned by Headquarters, Guidance Division, Office of Legal Counsel

G8 Request for position statement issued to Respondent
Attributes: plan date, actual date

G9 Position statement received from Respondent

X9 ADEA closure - failure to conciliate (7D)

W0 Request for DRP review withdrawn by Charging Party

W1 Charging Party requests DRP review

W2 Request for review rejected by DRP (procedural)

W3 Request for review accepted by DRP

W4 Case file sent to DRP

W5 Case file returned by DRP

W6 Determination upheld by DRP

W7 Determination reversed by DRP

W8 Remand received from DRP

W9 Remanded file returned to DRP

R0 Charge file received for legal action. This is not a new code. However, a second attribute field was added. The attributes now are: Type of action, and Attorney's initials.

Z4 Charge deleted. This is not a new code, but it works differently now. If code Z4 is used prior to transmission of a charge to the national data base, it will physically remove all traces of the charge from your local database. If the code is entered after the charge record has been transmitted to the national data base, it will merely flag the charge for deletion without erasing it from the local data base.

B1 Charge file reopened. B1 is not a new code. However, 2 attribute fields have been added:
Attribute 1: reason (for reopening case)
Attribute 2: source (of authority for reopening case)

Reason codes: M - Charge reopened on merits
P - Charge reopened because of procedural deficiency
E - Charge reopened because it had been closed in error

Source codes: D - District Director Decision
A - DRP decision
O - OPO decision
C - Commissioner decision

A3 A3 and A4 codes have been deleted. Lead charge numbers may be added or deleted directly from screen 1 of the Basic Charge Data.

A4 See note for A3 code.

Function codes added:

Z Technical Assistance Unit (Central Records)

T Enforcement Team
If an office has more than one group of Enforcement teams, it is recommended that Group I teams be designated T1 through T5, and that Group II teams be designated T6 through T9.

Office codes added:

115 Savannah local office
378 Hawaii local office

Process type codes added:

N Citizenship. To be used to denote charges which allege that the employment practices complained of are attributable to the citizenship status of the charging party.

INSTRUCTIONS FOR LOADING UPDATE 2.08.04 (CDSBASE)

Every office must load and install this update immediately upon receipt. Call Magaline Turner on FTS 634-6353 if there are any problems.

1. Backup your database. (Select U- utilities, then A - Backup Database). Upon completion, exit to the "C" prompt.

2. Insert the first update diskette in drive A and close the door. At the "C" prompt, type the following:
   copy a:install.bat c:\

3. The system returns with: 1 file(s) copied and the "C" prompt. Keep diskette 1 in the drive and type:
   install

4. The system will prompt for the first backup diskette which is already in the drive. So, press return. The system will prompt for the remaining diskettes.

5. After all 5 diskettes are loaded, the system will begin the update routine. The system will display the set-up screen. Enter "i" for IBM machine. (The "I" must be entered.) Then enter your 3 digit office code and press "Esc" to record. Enter "s" to save and end session. The system will continue with the update.

6. Upon successful completion, you will get the message "Restore is now complete." The system will return with the "C" prompt.

7. The update may take several hours or all day to complete. It will depend upon the amount of data in your system.

8. After loading Update 2.08.04 on your system, please proceed with the instructions for doing a NDB reload.

IBM INSTRUCTIONS FOR NATIONAL DATABASE RELOAD

**** !PLEASE! DO THE FOLLOWING AS SOON AS POSSIBLE ****

IA. TO DETERMINE IF YOUR OFFICE WILL PARTICIPATE IN THE NATIONAL DATABASE RELOAD, PLEASE ANSWER THE FOLLOWING QUESTIONS:

1. Do you have Update 2.08.04 successfully loaded on your system?

2. Is your system operational?

If the answer to the above questions is "yes", then you should be able to participate in the National Database Reload. Please follow the instructions outlined below. If you have not loaded Update 2.08.04 onto your computer or your system is not operational, please notify the individual listed in Section IC.

IB. TO DETERMINE IF ENOUGH SPACE IS AVAILABLE TO DO A NATIONAL DATABASE EXTRACT.

1. At the "C" prompt, type: chkdsk /f
   If the system asks: Convert lost chains to files?
   y

2. Before doing the national database extract, you must check to ensure there is enough space on the hard disk. At the "C" prompt, type: keylist The system will list the amount of space (bytes) available for 4 files, action (cdsact), benefits (cdsben), charge (cdschg), and Fepa (cdsfpa). It will also list the total number of bytes available on the hard disk. For example:

file	bytes	date	time
CDSACT			
KEY	134938	12-22-86	5:17p
CDSBEN			
KEY	12116	11-08-86	11:42a
CDSCHG			
KEY	291970	12-22-86	5:42p
CDSFPA			
KEY	188	10-11-86	10:07a

13608960 bytes available on disk
Strike a key when ready . . .

3. Add all 4 numbers under the column "bytes" and multiply by 2. If this number is less than the number bytes available on disk, plan to do the NDB Extract described in Part III at the time scheduled for your region.

4. If the total number of bytes added in step 2 is greater than or equal to the number of bytes available on disk, plan to do a backup of the data base as described in Part IV at the time scheduled for your region.

IC. CONTACT ISS. PLEASE CALL MAGALINE TURNER ON FTS 634-6353 TO INFORM ISS:

1. Whether your office will be participating in the national database reload. If not, what date you will be able to participate, and

2. whether you will be sending ISS a NDB extract or a local database backup.

**** DO NOT DO A NDB EXTRACT (OR BACKUP) UNTIL THE DATE ****
**** SCHEDULED FOR YOUR REGION IN PART V!!!!!!!!!!!!!!!! ****

Note: Please have ready 3.5 times the number of formatted diskettes used for a local database (LDB) backup

---

II. TASKS TO PERFORM PRIOR TO DOING A NATIONAL DATABASE EXTRACT OR LOCAL DATABASE (LDB) BACKUP.

1. SUSPEND DATA ENTRY !!!

2. Backup the database as follows:

   a. At the "C" prompt, type: cds
   b. From the Main Menu, select U - Utilities
   c. From the Utilities Menu, select A - Backup Database
   d. Label the diskettes and set aside. DO NOT USE DISKETTES FOR ANYTHING ELSE!

3. DO A NORMAL EXTRACT. BEFORE DOING THE NDB EXTRACT (OR BACKUP), DO A NORMAL EXTRACT ON YOUR SCHEDULED DAY FOR THE WEEK OF MARCH 14.

   a. Normal extract schedule:

Mon. March 14 offices in old region 1
Tue. March 15 offices in old region 2
Wed. March 16 offices in old region 3

b. From the Main Menu, select 3 -Communications.

From the Communications Menu, select
G - Clear Extract Data
A - Normal Extract.
E - Backup Extract Data
C - CM Auto Send and Receive (turn the printer on.)
(Make sure you insert diskettes into Drive A when prompted. If there are any transfer records for your office the computer will write them onto these diskettes.)

After successful transmission run, G - Clear Extract Data from the Communications Menu.

If the computer printout shows there are transfer records for your office, load the diskettes from option C above using D - Load Transfers from the Communications Menu.

c. Make sure the normal extract completes and is transmitted successfully before doing a NDB extract. If you encounter any problems, please call Omie Saunders immediately on FTS 634-6353.

III. NDB EXTRACT. IF YOU DETERMINED IN PART IB (STEP 3) THAT THERE IS ENOUGH SPACE AVAILABLE FOR THE NDB EXTRACT, DO THE FOLLOWING ACCORDING TO THE SCHEDULE IN PART V.

1. Backup your database.

2. From the main menu, select 3- communications. From the communications menu, select B - NDB extract.

Upon completion, select E - Backup extract data. After the NDB extract is backed up on diskettes, select G - Clear Extract Data.

3. Label the diskettes as follows and EXPRESS MAIL to the address in Part V:

NDB Extract office number
Date vol __ of __

Note: Ignore the message "file not found".

IV. BACKUP DATABASE IN LIEU OF NDB EXTRACT. IF YOU DETERMINED IN PART IB (STEP 4) THAT THERE IS NOT ENOUGH SPACE TO DO A NATIONAL DATABASE EXTRACT, DO THE FOLLOWING ACCORDING TO THE SCHEDULE OUTLINED IN PART V.

1. From the Main Menu, select U - Utilities
2. From the Utilities Menu, select A - Backup Database. This will backup the entire database. Label the diskettes as follows and EXPRESS MAIL to the address below:

LDB Backup (for NDB Extract) office number
Date vol ___ of ___

3. Backup your database again. Keep one copy for your office.

V. NDB EXTRACT SCHEDULE. DO NOT DO THE NATIONAL DATABASE EXTRACT OR THE DATABASE BACKUP, WHICHEVER APPLIES, UNTIL THE DATE INDICATED IN THE FOLLOWING SCHEDULE:

Tue. March 15 offices in old region 1

Wed. March 16 offices in old region 2

Thr. March 17 offices in old region 3

Mail the diskettes EXPRESS MAIL :

EEOC/ISS
2401 E Street N.W.
Room 313
Washington, D.C. 20507
Attn: Omie Saunders

Note: Please write in red on the envelope "DO NOT XRAY"

VI. RESUME DATA ENTRY!!! Upon successful completion of all tasks above you may resume entering data into your local database.

***** DO NOT RESUME YOUR NORMAL EXTRACT SCHEDULE***** UNTIL NOTIFIED BY ISS. *****

CDS XT SYSTEMS
Tape Backup Utilities

1. Introduction

2. Installation
2.1 Printing the AUTOEXEC.BAT file
2.2 Modifying the AUTOEXEC.BAT file
2.3 Installing the Hardware
2.4 Installing the Software
2.5 Loading the CDS Tape Backup Routines

3. Standard Procedures
3.1 Formatting Tapes
3.2 Backing up the Data Base
3.3 Restoring the Data Base
3.4 Backing up & Restoring CDS Programs
3.5 Checking the Contents of Tapes
3.6 Fast Data Backup and Restore

4. Recovering from a Failed Drive

5. Final Note

1. Introduction

The CDS Utilities menu has been modified to permit backup and restoration of your data base with the Mountain Computer tape backup unit. Tape backup should prove to be faster, more reliable, and more convenient.

All of the previous utility functions remain and are located in the first column of the menu. The following tape functions are located in the second column: backup data base, restore data base, backup CDS programs, restore CDS programs, tape directory - screen, tape directory - print, fast data base backup, and fast data base restore. Before use, tapes must be formatted using the TAPE software.

As with diskette backups, you should follow a 3 generation system backing up on a different tape each week. You should stock a minimum of 6 DC2000 mini data cartridges for CDS use.

The tape backup programs will record on tape the date and time a file was backed up. It uses the system date and time. Therefore, it is CRITICAL that these be properly set. Before making any backups, you may wish to exit CDS, return to a C:> prompt, and re-boot your system to check the date and time.

2. Installation

The new CDS Base release contains the menus and programs required for backing up and restoring the CDS data base. However, its use will require installation of the Mountain tape drive and the accompanying software. In addition, your AUTOEXEC.BAT file must be modified.

2.1 Printing the AUTOEXEC.BAT file

Each time your system boots or re-boots, it reads your AUTOEXEC.BAT file and executes the commands contained in the file. On CDS systems, it sets certain parameters that are critical to CDS. Below we discuss modifying the AUTOEXEC.BAT file; here we take some precautions with the existing version.

At the C:> prompt, issue the command

```
print autoexec.bat [CR]
```

where [CR] is a carriage return or Enter.

When prompted for the output device, press the Enter key [CR]. The file will then be printed.

You may also wish to take the added precaution of copying your AUTOEXEC.BAT file to a diskette. To do so, insert a blank formatted diskette in drive A and issue the command

```
copy c:\autoexec.bat a: [CR]
```

Now remove the diskette and label it.

2.2 Modifying the AUTOEXEC.BAT file

Your AUTOEXEC.BAT file must include the directory c:\mtn_tape in its path statement.

At the C:\> prompt enter the command

```
edlin autoexec.bat [CR]
```

The system should display the message End of Input File and an asterisk, * . The asterisk is the Edlin command prompt. Enter the command

```
1 [CR]          (the letter l to list the file).
```

Edlin will display the commands contained in the file. Find the line number of the line that contains a path statement like the following (for this example, we will use the number 5, though it might well be different in your AUTOEXEC.BAT file):

```
5:  path=c:\;c:\fp;c:\filepro\cdsmenu
```

You will append to that line ';c:\mtn_tape'. At the * prompt enter

```
5 [CR]          (Make certain to use the number of
                the line containing the path
                statement in your AUTOEXEC.BAT
                file.)
```

The system will display the current contents of line 5 and then repeat the number 5 waiting for you to enter the new contents of that line:

```
5:*path=c:\;c:\fp;c:\filepro\cdsmenu
5:*
```

Strike the [F3] key and Edlin will repeat the current line contents and move the cursor to the end of the line:

```
5:*path=c:\;c:\fp;c:\filepro\cdsmenu
5:*path=c:\;c:\fp;c:\filepro\cdsmenu
```

Then type ';c:\mtn_tape [CR]'

```
5:*path=c:\;c:\fp;c:\filepro\cdsmenu
5:*path=c:\;c:\fp;c:\filepro\cdsmenu;c:\mtn_tape
```

Edlin will return you to the * command prompt.

You should take the opportunity to check your AUTOEXEC.BAT file against the model below.

```
echo off
CLOCK
date
time
path=c:\;c:\fp;c:\filepro\cdsmenu;c:\mtn_tape
prompt $p$g
set IGN=ABDEFGHIJKLMNOPQRSTUVWXYZ
p cdssys
```

Please note that instead of CLOCK your file should name the particular clock routine associated with the memory board installed in your particular computer. This would be either pwrupclk, quadclok, or astclock.

Make certain that your file contains the line

```
set IGN=ABDEFGHIJKLMNOPQRSTUVWXYZ
```

That is the entire alphabet except the letter "C". If necessary, modify this line using the same commands used to change the path statement.

Your AUTOEXEC.BAT file may contain additional commands, beyond those listed in the model above. For example, some may contain the line

```
cc
```

that loads Carbon Copy into memory. There may be other commands unique to your machine. Make certain that you understand their purpose and that they do not interfere with the functioning of CDS. If you have a question about a particular command, call the CDS Hotline.

Issue the list command, l, to check the contents of the edited file. If necessary, edit any incorrect line again. Otherwise, exit by entering e at the * prompt.

Reboot the system, [Ctrl-Alt-Del], to have the operating system read the new AUTOEXEC.BAT file.

2.3 Installing the Hardware

IBM XT systems will require a Model 5780 tape drive unit. The front of the drive should say "40MB - PC". IBM PS/2 Model 30 systems will require a Model 5730 drive. Its front panel will only say "40MB". The drive units are NOT interchangeable.

On XT systems, simply connect the drive's signal cable to the external port on the floppy controller card; this is a female 37 pin connector. No installations are required within the system unit. Plug in the power cord.

On PS/2 systems, an adapter cable pair must be installed within the system unit to provide an external 37 pin connector at the rear. Installation instructions are included with the drive. Attach the drive's signal cable to this connector. Plug in the power cord.

2.4 Installing the Software

The tape drive unit must be installed and powered up along with the system unit.

The software comes on 2 5.25" diskettes for XTs and 1 3.5" diskette for PS/2s.

Insert the first diskette in drive A. From a C:\> prompt enter the command

```
a:install [CR]
```

When prompted, insert the second diskette and strike "Y".

You will also be asked if you have any language diskettes; respond by striking 'N'. After copying the required files, the installation program will check a ROM chip installed in the drive and then return you to a C:\> prompt.

If the drive unit was not turned on, the installation procedure will fail in its attempt to check the ROM chip. You can correct this, by powering up the drive and issuing the command 'chktape'.

2.5 Loading the CDS Tape Backup Routines

Insert Disk 1 of the CDS Base set of diskettes into drive A. From the C:> prompt, issue the command

a:loadtape [CR]

This will copy the batch and associated files for running backups and restorations of CDS files.

3. Standard Procedures

You should be backing up your data base at least once a week, immediately prior to running an extract. You should be following a 3 generation backup system, cycling through 3 tapes every 3 weeks.

Make certain to label and date the tape upon completion. Store the tapes in a clean, secure location away from any magnetic sources.

In addition to critical key and index files, the tape backup program now backs up the \etc\sysdata\sysdata file that contains the extract and transfer load sequence numbers. It also backs up the new fast extract files from \filepro\cdsxmit. This means that if an extract fails to make it to the national data base, restoring the last backup will keep sequence numbers in sync with the collection manager.

3.1 Formatting Tapes

Tapes, like diskettes, must be formatted before they can be used. Also like diskettes, tapes should only require formatting once; formatting them again will destroy any data that may have been stored.

Formatting a tape requires approximately 80 minutes. It does not require monitoring once started; you may want to format a tape over the lunch hour or, if possible, initiate the formatting immediately before leaving the office at the end of the day.

There is no CDS menu option for formatting a tape. You must do this by using the tape software directly.

Make certain the drive unit is turned on. Insert a new tape in the drive with the metal plate to your right and with the exposed-tape side going into the drive. At the C:\> prompt, enter the command

tape [CR]

You will be asked to confirm the date and time. You will then be presented with the main menu:

Backup Restore Directory Utilities Exit

Selections here can be made by striking the first letter of an option ('D' for Directory) or by using the cursor keys to highlight your choice and striking [CR].

Select Utilities. From the Utilities menu, select Format. At the warning message, strike 'Y' to proceed.

Formatting will require 80 minutes.

3.2 Backing up the Data Base

Make certain that the tape drive is turned on. Insert a tape. Make certain that your printer is turned on and that paper is installed.

From the Main CDS menu, select "U" for Utilities. From the CDS Utilities menu, select "1" for BACKUP DATA BASE. The backup can proceed unattended and upon completion returns to the CDS Utilities menu.

If the backup is successful, the system will print the following

```
CDS TAPE BACKUP LOG

Tape backup fully successful.

-- End of Log --
```

The system will also print a directory of the tape contents. Attachment A is a listing of the critical files that should be backed up. You should compare your output after each backup with Attachment A to confirm that all of your critical data files have been written to tape.

If the backup fails, the backup log will report where the failure occurred:

```
CDS TAPE BACKUP LOG

backup failure with ETC
backup failure with CDSACT

-- End of Log --
```

In this example, the log reports that a failure occurred in trying to backup a file or files from the \etc\sysdata and the \filepro\cdsact directories. The system does not report the specific file or files which were not backed up. It is important to check the printed tape directory, immediately following the log, to identify the failure.

A failed backup may be caused by a bad tape, or by missing files, or a corrupted file system. Consult the printed log and contact the CDS Hotline to identify the problem. Do not proceed with an extract or further data entry.

3.3 Restoring the Data Base

The occasion may arise - it certainly has in the past - in which you find that your data base has become corrupted or that your fixed disk has failed entirely. It is at this point that you will appreciate all the effort that went into faithfully backing up your data. (See section 4 about dealing with a failed drive.)

Make certain that the tape drive is turned on. Insert the tape containing your most recent backup of your data base. Make certain that your printer is turned on and that paper is installed.

From the Main CDS menu, select "U" for Utilities. From the CDS Utilities menu, select "2" for RESTORE DATA BASE. The restoration can proceed unattended and upon completion returns to the CDS Utilities menu.

If the restoration is successful, the system will print the following

```
CDS TAPE RESTORE LOG

Tape restore fully successful.

-- End of Log --
```

The system will also print a directory listing of those files that should have been restored to your hard disk. You can compare this listing with the list of critical data files listed in Attachment A.

If the restoration fails, the restore log will report where the failure occurred.

CDS TAPE RESTORE LOG

restore failure with CDSCHG

-- End of Log --

While the name of the directory is listed, the specific file or files that were not restored are not listed. A comparison of the printed directory listing against Attachment A should identify which files should have been but were not restored. An even better comparison can be made with the printed tape directory created when the data base was backed up. Contact the CDS Hotline to identify the problem. Do not proceed with data entry or any other activity.

3.4 Backing up & Restoring CDS Programs

Options 3 and 4 of the CDS Utilities menu are used to backup and restore, respectively, CDS program files. These would include Filepro programs, CDS menus, screens, edits, maps, processing and selection tables, and output formats. This includes all of the above items contained in the CDS Base release as well as any reports that you may have defined. Attachment B is a list of the directories and files contained in the standard CDS Base. Please note that files are not backed up from non-standard CDS directories. For example, if you create a new Filepro file, called "Harry", Filepro would create a DOS directory, c:\filepro\harry, and store there Harry's data, screens, processing tables, etc. None of Harry's files would be backed up by the BACKUP CDS PROGRAMS utility.

The CDS programs should be backed up immediately after installing the new CDS Base. You should not have to execute this Utility menu option again, unless you wish to back up a new report that you write and test sometime in the future. It would be prudent however to create a new tape and not reuse the tape made immediately after installing CDS Base.

3.5 Checking the Contents of Tapes

Options 5 and 6 of the CDS Utilities menu provide a listing of contents of a tape; option 5 displays the contents on screen while option 6 prints the contents.

The listings are generally lengthy and in most instances you will want a printed copy. However, you may find the screen output preferable for quick checks of the date files were backed up or of existence of particular files on tape.

3.6 Fast Data Backup and Restore

Options 7 and 8 of the CDS Utilities menu provide for a faster backup and a faster restoration of data files then options 1 and 2. However, they do not provide the same degree of error checking as options 1 and 2.

The log for each of these will only note whether a failure occurred with the \ETC\SYSDATA or the CDS files. It will not indicate whether the failure occurred with CDSCHG or CDSACT.

If these options are used instead of options 1 and 2, printed listing of backed up or restored files must be examined very critically to ensure that no data is lost.

Please note that these options come as a pair. You cannot do a fast restore (option 8) from a tape created with the normal backup (option 1).

4. <u>Recovering from a Failed Drive</u>

You may come in some morning, turn on your machine, and nothing happens: no date or time prompt, no CDS menu, just a blinking cursor or an error message.

Contact the CDS Hotline to get help in diagnosing the problem. The cure may simply require copying some files from diskette to the fixed disk. Or it may require re-formatting the drive. Or it may require a new drive. The

procedures here begin with a newly installed drive on which a low-level format has been completed. Do not initiate any of the actions below without having contacted the CDS Hotline.

4.1 Partitioning the Fixed Disk

Turn on the system with the DOS 3.1 diskette in drive A. Enter the correct date and time when asked. At the A:> prompt, enter the command

fdisk [CR]

Select option 1 from the fdisk menu to Create a DOS Partition. When asked if you wish you devote the entire disk to DOS, reply with Y [CR].

Upon completion of the partitioning, you will be asked to press the Enter key [CR]. The system will then re-boot from the DOS 3.1 diskette.

4.2 Formatting the Fixed Disk

The system should be on with the DOS 3.1 diskette in drive A and with an A:> prompt on the screen. To format the fixed disk, enter the command

format c: /s/v [CR]

The formatting will require 10 to 15 minutes. Upon completion it will ask you to enter a volume name of length up to 11 characters; this can be of your choosing. The system will then report the number of bytes available on drive C and return you to an A:> prompt.

4.3 Loading DOS

With the DOS 3.1 diskette still in drive A, issue the following command

copy a:*.* c:\ [CR]

This will copy all of the files from the diskette to the fixed disk. Replace the DOS 3.1 diskette with the DOS 3.1 Supplemental diskette and issue the same copy command.

4.4 Installing the Mountain Computer Tape Software

Obtain a C:> prompt by issuing the command c: [CR].

Follow the procedures in section 2.4 above to load the tape software.

Follow the procedures in section 2.5 above to load the CDS tape backup routines.

Issue the following command to set a temporary path:

path=c:\;c:\mtn_tape [CR]

To restore the CDS program files, make certain that the tape drive is turned on, the printer is online, and there is paper in the printer. Insert the tape containing your CDS programs and enter the following:

tp_pgmrs [CR]

To restore your data base files, replace your program tape with the most recent backup tape of your data base. Issue the command:

	tp_rest [CR]	if the tape was created with the standard backup option, option 1 from the CDS Utilities menu;
or	tp_fstbk [CR]	if the tape was created using the fast backup option, option 7 from the CDS Utilities menu.

Re-boot your system.

You should now have a working CDS system and can proceed to re-enter data that had been entered subsequent to the last backup. Contact the CDS Hotline and report that your system is back in business.

5. Final Note

While we have attempted to ease the burden of maintaining your CDS data base by creating these tape backup utilities, you might find it both interesting and useful to learn more about the Mountain Tape Drive and the software that comes with it. You will certainly find other uses for the drive and may wish to learn how these utilities operate. Attachment C contains a listing of the batch routines called by the Utility menu options discussed above.

MAR 1 0 1988

MEMORANDUM

TO : All District Directors

FROM : Richard Kashurba, Director
Information Systems Services

SUBJECT : CDS Update for Area/Local Offices

The CDSBASE programs (Update 2.8.4) were sent by express mail to all area and local offices on March 9. The offices are scheduled to load the update and proceed with the National Data Base (NDB) upload during the week of March 14.

Please alert your district office staff to be prepared to give assistance to area/local offices as required. Area and local offices may need support, for example, in obtaining supplies, such as diskettes, to comply with the NDB upload procedures.

SUB/RBAB/CMRON/CDSB/LS/as/3-10-88/"UPDATE.CDS"

2782 8.88

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MEMORANDUM

MAR 11 1988

TO : John Seal
Management Director

FROM : Richard Kashurba, Director
Information Systems Services

SUBJECT: CDS Implementation Status (Monthly Feedback) Report

We are attaching a current report on the status of CDS implementation, including the status of the National Data Base Reload.

Attachment
cc: John Schmeltzer
Jackie Shelton

MAR 14 1988
2652

CDS IMPLEMENTATION STATUS REPORT

(MONTHLY FEEDBACK REPORT)

AS OF MARCH 10, 1988

AS OF MARCH 10, 49 FEPA OFFICES HAD BEEN RELOADED ONTO THE NDB, WITH 19 REMAINING TO BE LOADED. SIXTEEN DISTRICT OFFICES HAD BEEN RELOADED ONTO THE NDB, WITH 7 REMAINING TO BE RELOADED. TESTING OF THE FILTER PROGRAM FOR MASSACHUSSETTS AND FLORIDA IS BEING CONDUCTED BY THE MASSACHUSSETTS OFFICE. SCHEDULED COMPLETION DATE FOR THE FILTER PROGRAM REMAINS JUNE 15. AS OF MARCH 10, THE NDB CONTAINED A TOTAL OF 201,235 CHARGES. IMPLEMENTATION OF LDB 396 REPORTS HAS BEEN DELAYED UNTIL MARCH 31 DUE TO BUGS IN THE IBM-XTBASE RELEASE. IMPLEMENTATION OF THE INTAKE AND HEARINGS PORTIONS OF THE NDB 396 REPORTS HAS BEEN DELAYED UNTIL APRIL 1 DUE TO THE NDB RELOAD. COMPARISON WITH THE MANUAL 396 REPORTS WILL START AT THAT TIME.

Jill 3-14-88. Conn 1

MAR 11 1988

MEMORANDUM

TO: Fran Hart
Office of Program Operations

FROM: Lynn Bruner
District Director

SUBJECT: Closed Age Cases - St. Louis Office

Attached are two manually prepared lists of age charges which were past the two year statute of limitations at the point of closure. One is for the period of October 1, 1986 through September 30, 1987, and the other is for the period of October 1, 1987 through January 25, 1987, in line with Jim Troy's memo of February 22, 1988.

There are a total of 28 charges on the FY87 list, and 15 on the FY88 list. If you want us to forward a computer printout of these cases at a later date, please advise.

cc: Jackie Shelton

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MAR 14 1988

MEMORANDUM

TO : James H. Troy, Director
Office of Program Operations

FROM : Jacquelyn J. Shelton, Director
Field Management Programs, West

SUBJECT : Bi-Weekly Activity Report - Period Ending 3/11/88

I. Program Activities

Provided assistance to District Directors in the preparation of responses to the subpoena from the Senate Special Committee on Aging, and reviewed and copied all documents in headquarters' files.

Bi-weekly conference calls held with Denver, Chicago, Houston, Indianapolis and Los Angeles District Offices.

Began gathering information to respond to correspondence from the Texas FEPA's Executive Director regarding the distribution of charges against Texas State agencies and departments for processing by the Texas FEPA.

Provided information to FHP-West team in St. Louis on inquiries from Kansas FEPA about HERO system maintenance agreement criterion and overdue payment on an FY 87 voucher.

Provided assistance/information to Executive Director of Georgia FEPA about FY 87 credits and final production report. Contacted State and Local Coordinator in Atlanta to coordinate response on the final calculation of contract credits, and provided information about the correct method of crediting and reporting 6400 and 6000 type credits.

Spoke with Director, Chicago and learned of her recent efforts to explore the necessity for providing charge resolution funding to the Illinois Civil Rights Commission in addition to the Illinois Department of Human Rights (IDHR). The Director identified significant problems with IDHR's implementation of the HERO system, which, among other things, adversely effects the Chicago office's ability to monitor ADEA charges in process with IDHR and the tolling of the two year statute of limitations.

The Houston Director inquired why the Office of Audit (OA) had not conducted a scheduled on-site investigation of an employee's misconduct. FHP-West contacted OA and learned that the investigation had been postponed, and will be conducted in the near future.

Conducted quality review of the St. Louis and Kansas City offices during the week of February 29 - March 4, 1988.

Prepared and submitted 7 Congressionals, 2 Chairman controlled letters, and 3 charging party inquires.

II. Pending Decisions/Matters

Review of Pending Inventory listings from field offices.

Transfers of cases between field offices.

III. Upcoming Activities

Prepare closeout reports for FY 87 FEP Agency and TERO contracts.

Finalize Houston, St. Louis and Kansas City trip reports.

Develop computerized field staff tracking system for FHP, West.

Conduct field review of the Phoenix District.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MAR 16 1989

MEMORANDUM

TO : John Schmelzer, Director
Field Management Programs - East

FROM : Polly Mead, Director
Office of Performance Services

SUBJECT : Case Management and Tracking System

During the February 25th meeting, the following items were discussed and agreed to:

- a sophisticated case management and tracking system is needed in every office that would provide not only basic case tracking information but also management information necessary to provide effective and efficient control of the office workload.
- the foundation of the office system would be the Headquarters CDS system;
- the Charlotte district office case tracking and case management system would be used to establish the basic requirements for this system.

In order to put a system in place in each of the identified offices, the following steps will be implemented:

1) CHARLOTTE DISTRICT OFFICE SYSTEM REVIEW

The following core reports were identified as essential to implementing a system sophisticated enough to provide a management environment where managers at all levels have a total understanding of the office, unit and individual investigator's workload. By using these reports managers are able to make informed and timely decisions:

1) Pending Inventory
2) Closures
3) 270 Day Old Charges
4) Charge Receipts by Investigator
5) Charge Receipts by Charge Number
6) 3 Way Locator
7) Cause
8) Administrative Closures

These core reports do not require any additional information to be entered into the CDS system than is already being required by headquarters.

Several of these reports (i.e., pending inventory, closures, 270 day old charges, 3 way locator) are original ISS reports which generate minimal numerical reports. The Charlotte office has enhanced and embellished these reports to make them more useful total management tools. These enhancements include basic reports format changes, summary tables by office, unit, and investigator, investigator - age of a charge, retaliation charges, and Statute Of Limitations data.

Other reports (charge receipts by investigator and charge receipts by charge number) have been developed in Charlotte as part of an on-going effort to utilize the CDS system and further enhance the development of a system which is responsive to management's needs. These reports are a direct result of the reorganization and provide information related to the number of charges an investigator takes while in intake and also tracks charges by number to ensure against skipped sequencing of charge numbers and charges not entered into the system.

These eight (8) reports form the core of Charlotte's case tracking and case management system. These basic reports have provided Charlotte with a sophisticated case tracking and management system which optimizes the capabilities of the headquarters' CDS system. It also provides the management team with a system which allows it to handle workloads in a responsive and timely manner.

2) DISTRICT OFFICE REVIEW

The next step, having each of the identified offices submit copies of their reports, has already started through contacts with the district office directors. They have been informed that their MISs would be contacted to discuss the office's use of CDS, the status of the hard inventory, the currency of the CDS data, and the types of reports the system is now generating.

Following this discussion with the MISs, copies of the office reports will be sent to headquarters for review to establish the level of readiness and the estimated level of resources needed to implement the system within each of the offices.

3) CHARLOTTE MEETING

Two separate sessions have been tentatively scheduled during April for the identified district office directors and their MISs in Charlotte. This meeting will involve a review of Charlotte's case tracking and case management system, discussions of the basic administrative functions of the system, technical discussions with the MISs, interviews with several Charlotte managers by the district office directors on how they use their system, a review of the office's readiness level for implementing a sophisticated system such as Charlotte's, identifying the next steps needed to implement the system and what resources will be made available to them by headquarters for this undertaking, and providing individual customized office core reports that can be placed on their system to generate the eight core reports.

The main outcomes of this meeting will be an increased awareness of how the CDS system can be used for case tracking purposes and how an office can develop a reporting system which provides them with the necessary information to efficiently and effectively manage their workload while being more responsive to their investigators by providing more and better supervision around case management and case development issues.

If you have any questions or concerns with the above, please let us know by March 25, 1988.

cc: Ed Elkins
Director, Charlotte District Office

Southeast Region
Taco Bell Corp
1295 Marietta Parkway, #129
Building 350
Marietta, Georgia 30067
Telephone 404 426 7410

ATTACHMENT 6 (D) 119

March 17, 1988

Jim Troy
Director of Program Operations
Equal Employment Opportunity Commission
1401 E Street, NW
Washington, DC 20507

Dear Mr. Troy:

The combined presentations by Chairman Clarence Thomas, Pamela Talkin, Ed Elkins and yourself were the highlight of the recent EEAC conference for me. I'd like to make a few observations and one recommendation. First, you need to know that I am an Industrial/Organizational Psychologist by training and experience, and I won't presume to speak regarding legal issues (my head spun more than once at the technicality of the "inside" comments).

Organizational change starts at the top with a clear articulation of vision, values, and strategies . . . and then can percolate down through the organization as all levels are inspired by the mission and involved in the achievements. Your words (as in the conference) and your deeds (as in the automation of case handling and in the delivery of a new training program) are consistent and represented a very positive and exciting message to hear. In stark terms, I heard you say that the EEOC will be an objective, neutral law enforcement agency that attempts to build an equally viable case on both sides of the charge (i.e., no witch hunt and no one-sided investigations or assumptions of guilt). And yet, it was refreshing to see that you are also aware that "x" levels down in the organization, you encounter the zealousness of spirit and narrowness of perspective that can translate into negative and confrontational interactions.

Now to my point. It was clear that the training you are now providing to your field people is a very positive step. Not knowing the content of that training, I would urge a <u>heavy</u> dose of the "Vision, Values, and Strategy" that you so well articulated . . . along with interpersonal communications training, especially in stressful and potentially confrontational situations. Technical training on the steps to follow is important, but much of that can occur on the job. What can really impact the culture of the organization is training that very clearly addresses the interaction

style that is expected . . . and provides the opportunity to practice it. Note that people can interpret "we are a law enforcement agency" in very different ways, with some assuming it means they've got the gun and the badge and are out to clean up the town!

It's interesting that you are facing the same things other organizations have faced and are experiencing some of the same frustrations. That is, "top brass" is talking and acting right . . . but the message hasn't made it all the way to the people that day to day interact with the customer or client. Most people are familiar with the popular behavioral theories which state that there is a self-fulfilling prophecy to the manner in which you choose to act toward others. If you assume incompetence and/or evil intentions, you are more likely to produce defensive behaviors that "prove" your point. When a parent talks down to a child, the child fights back in frustration. Similar interaction theories can be used to describe the interaction between agencies and organizations. Our preference and yours is to assume Theory Y and interact on an adult-adult basis. I am guessing there may be opportunity within your training to further develop these points. We have used DDI's Interaction Management Training very effectively.

Allow me one additional but related point, and it relates to the people sensitivity required in the on-site investigation. I hope you noticed the unanimous concern that the investigator, armed only with the complainant's charge, may unwittingly create more victims or unnecessarily taint the complainant. As you know, poorly handled investigations can create real harm in the personal and professional lives of innocent people. I urge you to enact a step requiring a "light" request for information (i.e., three pages giving "our" side) and a statement to work closely with field EEO/human resources representatives in planning the nature and timing of the investigation.

In summary, we share the objectives of a "good management" workplace . . . because it's good for business, and it's the right thing to do. I applaud your efforts to improve the quality of our interactions at all levels.

Sincerely,

Richard Vosburgh

Richard Vosburgh, Ph.D.
Division Director of Human Resources
Southern Division - Taco Bell

RV:vp

cc: Ray Castro

ATTACHMENT F

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

March 18, 1988

Office of
General Counsel

TO: Regional Attorneys

THRU: Charles A. Shanor
General Counsel

FROM: Philip B. Sklover
Associate General Counsel
Trial Services

SUBJ: Modification of the Presentation Memorandum Package

Please implement the following instructions for preparation of the Presentation Memorandum package.

1. All supporting documents following the Presentation Memorandum itself shall be consecutively numbered in the lower right-hand corner. Thus, for example, if the Presentation Memorandum is 13 pages long, the first page of its attachments will be numbered 14, and so on.1/ Other numbers that may appear on these documents should be left undisturbed. As long as the Presentation Memorandum itself is prominently numbered, it is unnecessary that it also be numbered in the lower right hand corner. (We note, however, that the Presentation Memorandum is easier to use if numbered on the bottom.) The "List of Attached Documents" in the Presentation Memorandum itself should indicate the page of the Presentation Memorandum package on which the document begins. While it has been the practice in most district offices to place the Complaint opposite the Presentation Memorandum, from now on the Complaint should be the final document following the Presentation Memorandum and numbered accordingly in the lower right-hand corner.

2. All references within the Presentation Memorandum to documents included in the Presentation Memorandum package should include, in addition to such identifying information as would ordinarily be used (e.g., "Investigator's Memorandum," "Respondent's Position Statement"), a citation to the page number of the Presentation Memorandum package described in item 1, supra.

1/ We suggest the use of a Bates brand or similar numbering machine and an ink that will reproduce clearly. If you do not have such a device, the numbers may be penned in until you acquire one.

3. Tabs and other dividers within the Presentation Memorandum package should no longer be used. Staples should be removed from separate documents within the package. However, documents, such as exhibits, that may not be self-identifying should continue to be clearly identified either on the first page of the document itself or on an inserted page.

The reasons for these changes are the following: The present Presentation Memorandum package arrangement has a number of shortcomings that have often made it difficult to refer to, and to find, particular materials within the package. Investigators' Memoranda, in particular, often are not numbered. In addition, many of the district offices have neatly tabbed various documents within the package. This procedure, carried out with considerable time and effort by the district offices, has been quite valuable for the staff in Trial Services, who are the main user's of the original packages submitted by the district offices. However, another dozen copies are then made at Headquarters for the use of the Commissioners and their staffs. Headquarters resources preclude the tabbing of these copies. Thus, the references in the Presentation Memoranda and Transmittal Memoranda to documents under particular tabs are largely useless. Finally, the tabs, as well as any staples in individual documents in the package, complicate the reproduction of the Presentation Memorandum package at Headquarters.

We believe that the recommended procedure will simplify the mechanical aspects of the preparation of the Presentation Memorandum package both for the staffs at Headquarters and in the district offices and will facilitate the use of the packages whenever there is a need to refer to documents beyond the Presentation Memorandum itself. Please implement the procedure immediately, except for those in-process Presentation Memoranda for which doing so will be inconvenient.

cc: James H. Troy, Director
Office of Program Operations

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MAR 25 1988

MEMORANDUM

TO : Management Information Specialists (MISs)
District Offices

Management Information Assistants (MIAs)
Area/Local Offices

Administrative Officers
Headquarters Offices and Service Areas

FROM : Richard A. Kashurba, Director
Information Systems Services

SUBJECT: On-Site Upgrades to IBM PS/2 Warranties

After months of coordinating with IBM to obtain the information needed to upgrade the PS/2 equipment warranties to on-site service, we are finally in a position to proceed. However, because so much time has elapsed on the warranties (which would be upgraded for a flat fee) and since we suspect that hardware problems have been fewer than anticipated, we are considering an alternative approach to providing you with on-site service. In order to perform a quick cost analysis, we would appreciate your help by taking a few minutes to gather some information on your office's experience under the warranties.

Please complete the attached questionnaire, giving us the number of hardware problems to date requiring service under the IBM PS/2 warranties for your office. If you cannot come up with a precise count, your best estimate would be of value. Please return the completed form no later than April 1[illegible] to Art Benthall of my staff at headquarters, Room 316. Questions may be directed to Art at FTS 634-6353.

Thanks for your assistance.

cc: John Seal
James Troy

Attachment

IBM PS/2 WARRANTY EXPERIENCE QUESTIONNAIRE

Office: _____

Contact Name: _____ Telephone: _____

Number of IBM PS/2 Systems Installed in Office: _____

Average Time in Months Since Systems Were Installed: _____

Number of IBM PS/2 Hardware Problems to Date
Requiring Maintenance Service Under Warranty: _____

Comments: _____

_____

_____

_____

_____

_____

_____

INSTRUCTIONS: Return completed form to Art Benthall, ISS, Suite 316, Headquarters (FTS 634-6353) no later than April 15, 1988.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MAR 29 1988

30

8939

MEMORANDUM

TO : All Headquarters EEOC Staff

FROM : Richard Kashurba, Director
Information Systems Services

SUBJECT: Microcomputer Training Classes

This is to announce the continuing microcomputer training program for Headquarters employees. Information Systems Services (ISS) is presently offering two courses in microcomputer technology. They are Introduction to Microcomputers and PC DOS and Introduction to WordPerfect.

The classes are open to all EEOC employees who use or will use microcomputers. Classes are held on Tuesdays and Thursdays in two sessions, one in the morning and another in the afternoon. Classes are held in the Information Technology Center (ITC), Room 394, Headquarters. Each class is approximately 2-1/2 to 3 hours long.

To afford individual attention and hands-on experience, classes are limited in size to eight students. Enrollment is on a "first-come, first-served" basis. To register, please fill out the attached "PC Training Request" form and return it to the ITC, Room 394, attention Edna Jones. Due to the popularity of our classes, we recommend that you register early to insure a secured slot.

Courses presently being offered include the following:

Introduction to Microcomputers and PC DOS

A 2-1/2 to 3-hour course designed for the individual who has little or no experience using a microcomputer. The course covers basic computer terminology, an overview of hardware components, hardware/software care, and the disk operating system commands. There is no prerequisite for this course.

Introduction to WordPerfect

A 2-1/2 to 3-hour course designed for the individual who has very little wordprocessing experience. Emphasis will be placed on the concepts, uses and basic commands of the WordPerfect wordprocessing software version 4.2. Upon completion of the course, the student will have a basic understanding of how to load, create, store, edit and retrieve a WordPerfect document. Introduction to Microcomputers and PC DOS or its equivalent is a prerequisite for this course.

Plans for future courses in Advanced WordPerfect, Lotus 1-2-3 and RBASE 5000 are now in the making. Please indicate your interest on the attached training request form. For addition information, please contact Edna Jones on 634-6555.

Attachment

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MAY 20 1988

MEMORANDUM

TO : Addressees
[See Attached List]

FROM : Polly Mead, Director
Office of Performance Services

SUBJECT : Case Management Program: Case Tracking Meeting in Charlotte

In support of the Chairman's case management initiatives, OPS is working closely with OPO to develop a comprehensive Case Management program for implementation in your office throughout FY'88. Due to budget constraints, it is not possible to present the complete program in all offices this year. Eventually, however, all district offices will receive the entire program. A nationwide case management conference is still planned for early FY '89.

Charlotte Meeting Schedule

The Case Management program has three major parts: Case Tracking, Case Development and Management and Caseload Planning. As part of a phased approach, the Case Tracking portion will be introduced to District Directors and MISs in seven district offices jointly chosen by the Office of Program Operations and the Office of Performance Services -- Baltimore, Detroit, Los Angeles, Memphis, Phoenix, Seattle and St. Louis -- in the Charlotte District Office on April 13-15, 1988 for the East and April 20-22, 1988 for the West. The meetings will begin at 9 a.m. each day and will end at noon on the last day. Additional technical assistance follow-up sessions on Case Tracking are also planned as needed in each office.

Charlotte Travel Arrangements

Funds are being transferred to your office to cover all costs. We have reserved rooms for you and your MIS by name at the Adam's Mark hotel in downtown Charlotte. (Phone 704-372-4100, Government Rate $53.00 + 8.0% tax) The rooms are not prepaid; bills should be handled by individuals at checkout. Please call the hotel to confirm your reservations or cancel the one in your name if you plan to stay elsewhere. Ed Elkins has offered us the use of the Charlotte office's government cars so that we can travel to and from the Adam's Mark to the Charlottte District Office each day.

If you have any additional questions concerning travel arrangements, please feel free to call Betty Welch, OPS Administrative Officer at FTS 634-1574.

RECEIVED
MAY 20 1988

Charlotte Meeting Agenda and Expectations

OPO has identified the requisite elements of a "bottom-line" CDS based case tracking/case management system. These requisite elements are as follows:

- Must track and verify basic charge data.
- Must track key steps/outcomes of the investigative process.
- Must track and provide specified characteristics of pending inventory by (1) function (2) unit and (3) Investigator
- Must track and/or calculate specified processing information for closures
- Must be capable of producing on a periodic basis reports that provide all information required to meet local and Headquarters reporting requirements.
- Must have capacity to provide as needed optional reports to meet local needs

Since the Charlotte office has been identified as one office whose case tracking system contains these requisite criteria, this meeting is an opportunity to review and discuss their system.

The Charlotte meeting will involve:

- Defining a "bottom-line" case tracking/case management system.
- Presenting the basic criteria for this system.
- Reviewing the Charlotte district office's system (case tracking/case management and the administrative functions).
- Conducting interviews with system users (managers) and technical discussions with the MISs.
- Reviewing each office's readiness level for implementing a "bottom-line" case tracking/case management system.
- Identifying the next steps and resources needed to implement a "bottom-line" system.

Expected Outcomes after Charlotte

As a result of this meeting each office should have (1) an increased awareness of how the CDS system can be used for total case tracking and case management purposes; and (2) an understanding of how an office can develop and utilize a reporting system that provides necessary information to efficiently and effectively manage an office workload.

In addition, each office will be given a diskette containing six customized reports. These reports will allow your office to generate those case tracking/case management reports used during the Charlotte meeting.

We recognize that circumstances and needs may vary. Our hope is to customize services based on your specific needs. Staff in key areas are ready and eager to work with your offices to improve performance. In particular, personnel in the Quality Services Branches and Training Development Branch of the Office of Performance Services are prepared to concentrate resources for that purpose. We know that you will take full advantage of this opportunity.

I look forward to seeing all of you in Charlotte.

cc: District Directors not listed as Addressees
Baltimore MIS
Detroit MIS
Los Angeles MIS
Memphis MIS
Phoenix MIS
Seattle MIS
St. Louis MIS
Richard Kashurba
Jacquelyn Shelton
James Troy

ADDRESSEES

Bruner, Lynn

Gloria, Hermilo

Grabon, Walter

Keeler, Judith

Krueger, Ron

Lewis, Spencer

Mead, Dorothy

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

APR 4 1988

MEMORANDUM

TO : Addressees
[See Attached List]

FROM : James H. Troy, Director
Office of Program Operations

SUBJECT : Case Tracking and Case Management System

One part of the Chairman's case management initiative is the full implementation of an effective case tracking/case management system in each of the field offices.

As the Chairman emphasized in his memorandum of January 12th, 1988, each field office, the Office of Program Operations, the Office of Performance Services and the Chairman's office must work together to develop and implement an approach to provide for swift, thorough and current investigations of every charge.

Attached are requisite criteria for any "bottom-line" CDS based case tracking system which not only tracks basic case data but also can be tailored to serve as an effective and efficient management tool in controlling/directing an office's workload. The importance of developing and implementing case tracking systems and these basic case tracking criteria will be more fully addressed during meetings being held in Charlotte April 13-15 (East offices) and April 20-22 (West offices).

As we know, the Commission's case management initiative is aimed at better management of large case inventories, more efficient investigation of cases, and assurance of quality work products. Case tracking is critical to all three components. The meetings in Charlotte are an important first step.

Attachment

cc: Baltimore MIS
Detroit MIS
Los Angeles MIS
Memphis MIS
Phoenix MIS
Seattle MIS
St. Louis MIS

ADDRESSEES

Bruner, Lynn

Gloria, Hermilo

Grabon, Walter

Keeler, Judith

Krueger, Ron

Lewis, Spencer

Mead, Dorothy

BASIC CRITERIA FOR TRACKING SYSTEM

1. Must track and verify minimum basic charge data:

   - Statutes
   - Retaliation
   - Bases and Issues
   - Charge number
   - Charging Party name
   - Respondent name
   - Respondent type
   - Filing date
   - Date of alleged violation
   - Other

2. Must track identified key steps/outcomes of the investigative process:

   a. On-site investigations

   b. Posted notices

   c. Expedited investigations of retaliation

3. Must track for pending inventory by function, unit and EOS:

   a. Charge number, respondent name, and CP name (Active Charge three way locator).

   b. Office age (file date) and EOS age (assignment date) of each charge in office and with EOS, with 270 day charges flagged and counted for EOS, unit, function and office.

   c. Statute of limitations time for ADEA and EPA charges.

   d. Average age of charges for EOS, unit, function, and office.

   e. Total number of charges for EOS, unit, function, and office.

4. Must track and/or calculate for resolutions:

   a. Charge number, respondent name, and CP name (Closed Charge three way locator).

   b. Number and type of resolution of charges closed by EOS, unit, function and office for specified time period.

   c. Age at closure.

   d. Average age of all closures.

   e. Dollar benefits and persons benefitted.

   f. Percentage of administrative closures by EOS, unit, function and office.

   g. Breakdown by statute and type of closure for each unit and office.

5. Must be capable of producing on a periodic basis (monthly at a minimum) the following reports:

   a. Pending inventory sorted by Charge Number, Charging Party, and Respondent (3 Way Locator).

   b. Closures for specified period sorted by Charge Number, Charging Party, and Respondent (3 Way Locator).

   c. Pending inventory sorted by EOS, Unit, and Function with detailed information outlined in 2 above.

   d. Closures sorted by EOS, Unit and Function with details identified in 3 above.

e. Listing of all charges which are or will be 270 days by September 30, sorted by EOS, Unit, and Function.

f. Administrative Closures as defined for 396 reports.

g. Listing of cause decisions with date of issuance of decision; date of issuance of conciliation proposal; date of conciliation conference (if one); conciliation outcome; and time lapses between stages of process.

6. Should have the capacity to provide on an as-needed basis optional reports to meet identified local needs of case management systems, e.g.:

a. Charge Receipts for specified period sorted by Intake EOS.

b. Charge Receipts for specified period sorted by Charge Number, with statutes, bases, issues, with 396 style summary of totals by statutes.

c. Transfers from other offices, with 396 style summary of totals by statutes.

d. Transfers to other offices, with 396 style summary of totals by statutes.

e. Dates of identified key investigative milestones for pending or closed charges.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

April 8, 1988

TO: James H. Troy, Director
Office of Program Operations

FROM: Jacquelyn J. Shelton, Director
Field Management Programs - West

SUBJECT: Bi-Weekly Activity Report - Period Ending 4/8/88

I. Program Activities

Conducted a conference call with Lynn Bruner, James Neely and Paul Boymel, Office of Legal Counsel concerning the possible need to reopen 57 charges against McDonald Douglas. These charges relate to defined benefit plans under ADEA and were discovered during the recent Quality Review in St. Louis. These charges may have been closed prematurely based on amendment 4(i) of the ADEA. We are working with the Office of Legal Counsel and St. Louis to clarify and resolve this matter.

Selected a director for the Oklahoma City Area Office. Donald Burris, from the Denver District Office is expected to report for duty on April 25, 1988.

Approved a request from the Texas Commissioner on Human Rights to have Harriet Ehrlich participate in the IAOHRA Annual Conference in July 1988.

Responded to a grievance filed by the deputy director in the Dallas District Office. Also, we prepared a recommendation to a district director in response to a grievance by that office's deputy director.

Met with attorneys from the Office of Legal Counsel in preparation for a MSPB hearing to be held in Baltimore on April 18, 1988. This hearing is a continuing matter from the Baltimore District Office and concerns the recent termination of an investigator.

Met with Leo Sanchez, ISS, to request a CDS run, by zip code, for the city of Los Angeles and Los Angeles County. This information will pinpoint geographical areas with the largest number of charges. ISS will provide this information by approximately April 13, 1988. The information received from ISS will assist in determining how Los Angeles can better manage its constantly expanding workload.

Met with an attorney advisor in Federal Sector Programs to discuss a continuing problem in getting complaints decided and issued, which were previously heard by a former Administrative Law Judge in Seattle. We are continuing to work with the Seattle director to resolve this matter.

Responded to Vice Chairman Silberman concerning two charges from the Dallas District Office. The attorney for two charging parties complained about the manner in which their charges were handled.

Commenced working with the Dallas district director in response to his request for an EEOC exhibit and booth at the national LULAC Convention being held in July 1988. We have been informed by the Office of Communications and Legislative Affairs that it is unable to spend the required $1,000 fee for the rental of a booth due to budget cuts. Efforts are being made by the Dallas office to obtain free rental of a booth which will be manned by Dallas employees. There has not been a final decision by the LULAC representative regarding the request for a free booth.

Completed the ADEA/ADEA Concurrent and EPA/EPA Concurrent Pending Inventory list summaries for FMP-W offices, with the exception of St. Louis, San Diego and Dallas offices. St. Louis and San Diego are experiencing computer malfunctions and the Dallas office has been requested to revise some of its processing time data. The Dallas statistics are expected within a day or two. When received their data will be incorporated into the summaries that we have provided to Program Research and Surveys Staff for inclusion in a combined report for East and West. These summary reports show age range and processing time statistics from the date of the alleged discriminatory act to January 29, 1988 for ADEA and EPA charges.

Conducted a Quality Review of the Denver District Office during the week of April 4-8, 1988.

Held Bi-Weekly Conference Calls with Los Angeles, Houston, Milwaukee and Dallas. The Houston Director informed us that they hired one investigator, one program analyst and two clerk typists during this period. This leaves Houston with four vacancies, of which one is for an investigator.

Continued work on the conversion of investigators from the GS-360 series to GS-1810. New position descriptions are being revised.

Completed 9 Congressionals, 8 Chairman Controlled letters, and 10 general correspondence responses.

Worked with the Labor Management Relations Division on a union proposal regarding overtime. Additional meetings are required to handle the matter.

Met with the Hearings Task Force.

Held discussions with Lynn Bruner regarding her concerns about the EEOC's representatives in upcoming arbitration. We are consulting with the Office of Legal Counsel on this matter.

II. Pending Decisions/Matters

The decision to transfer cases between field offices is in progress.

III. Upcoming Activities

Finalize the Houston, St. Louis, Kansas City, Phoenix and Albuquerque Quality Review Trip Reports, and begin preparation of the trip report for Denver.

Develop a FMP-W computerized field staff tracking system.

Prepare close out reports for FY 1987 FEP Agency and TERO contracts.

Prepare Mid-Year Reviews for FMP-W district directors.

Revise the goals for some district directors.

Analyze 396 Reports for FMP-W field offices.

Conduct a Quality Review of the Seattle District Office during the week of May 16-20.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

APR 13 [redacted]

MEMORANDUM

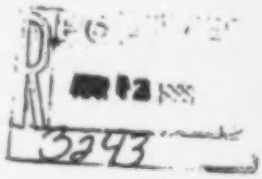
TO : John Seal
Management Director

FROM : Richard Kashurba, Director
Information Systems Service

SUBJECT: CDS Implementation Status (Monthly Feedback) Report

We are attaching a current report on the status of CDS implementation, including the status of the National Data Base Reload.

Attachment
cc: James Troy
Jackie Shelton



CDS IMPLEMENTATION STATUS REPORT

(MONTHLY FEEDBACK REPORT)

AS OF APRIL 11, 1988

AS OF APRIL 11, 65 FEPA OFFICES HAD BEEN RELOADED ONTO THE NDB, WITH 3 REMAINING TO BE LOADED. TWENTY TWO DISTRICT OFFICES HAD BEEN RELOADED ONTO THE NDB, WITH 1 REMAINING TO BE RELOADED. TWENTY AREA/LOCAL OFFICES HAD BEEN RELOADED ONTO THE NDB, WITH FIVE REMAINING TO BE RELOADED. AS OF APRIL 11, THE NDB CONTAINED A TOTAL OF 257,522 CHARGES.

DISTRIBUTION OF LDB INTAKE AND ENFORCEMENT 396 REPORTS WAS COMPLETED ON 3/30. DISTRIBUTION OF LDB SYSTEMIC, WORKLOAD AND HEARINGS 396 REPORTS IS SCHEDULED FOR 8/15. TESTING OF NDB 396 REPORTS IS IN PROGRESS; COMPARISON WITH THE MANUAL 396 REPORTS IS EXPECTED TO BE COMPLETE BY 4/18.

COMPLETION OF THE LDB PURGE UTILITY IS NOW 6 WEEKS BEHIND THE SCHEDULED 4/28 COMPLETION DATE. MINIFILE IS SCHEDULED FOR COMPLETION ON 7/9. HERO UPGRADE IS SCHEDULED FOR COMPLETION ON 7/24. INTAKE INTERFACE IS SCHEDULED FOR INSTALLATION AT PILOT SITES BY 8/15. ALL TRAINING IS ON HOLD PENDING AVAILABILITY OF FUNDS. DISTRIBUTION OF REVISED CDS DOCUMENTATION IS SCHEDULED FOR COMPLETION BY END OF APRIL. ISSUANCE OF NEW ORDER 244 IS SCHEDULED FOR END OF JUNE. ISSUANCE OF CDS GUIDE FOR HEARINGS IS SCHEDULED FOR END OF MAY. ISSUANCE OF CDS GUIDE FOR LEGAL UNITS IS SCHEDULED FOR END OF JULY. CDS HARDWARE UPGRADES FOR FIELD ARE SCHEDULED FOR COMPLETION BY END OF AUGUST. FEPA HARDWARE UPGRADES ARE ON HOLD PENDING AVAILABILITY OF FUNDS.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
CENTRAL WEST PLAZA BLDG. 9th FLOOR
625 NORTH EUCLID
ST. LOUIS, MISSOURI 63108

APR 18 1988

MEMORANDUM

TO: Jim Troy, Director
Operation Program Management

FROM: Lynn Bruner
District Director

SUBJECT: Case Tracking and Case Management Systems

I received your memo of April 4, 1988, concerning the above subject. Following the review of the requisite criteria which you have presented as being required for a "bottom-line" CDS case tracking system, I find that the St. Louis District Office is capable of meeting all of the criteria with the following exceptions:

1. Posted notices

   There are presently no codes in CDS to identify those cases on which notices have been posted. Since notices are only required on successful conciliations, I assume we might be able to modify that code in some way, so as to indicate that a notice was included. We have successfully used such approaches in the past. If that does not work, it will be up to ISS to make a change in the coding. I note that we have been keeping a manual count of the notices, and have been reporting them as part of the 396. We will continue this manual process.

2. Expedited Investigations of Retaliation

   Although we can certainly produce a list of all retaliation charges, there is no special code in CDS to identify retaliation charges which have been expedited for investigation. In this office, however, we have a standing policy which requires the screening committee (which reviews all new charges) to consider all retaliation charges, and recommend them for expedited investigations wherever appropriate. These cases are tracked in an R-base computer program which we use for tracking all expedited investigations identified by the Committee.

In an effort to resolve this situation, I have taken the following steps:

a. All carpeting was removed from the computer area.
b. We are purchasing a humidifier for the computer room.
c. We are purchasing a fan and thermometer for the computer room, and will make every effort to keep the room at a constant temperature.

We have also asked the NCR people to make a full examination of the computer itself, to insure that there are not some wiring or other problems in the computer which are creating the problem.

As an extra precaution, I will be requesting that ISS purchase a devise which will ensure an uninterrupted power source. This will ensure that the data is not damaged because of a power outage.

If we continue to have problems with our computer after all the above steps are completed, I will be requesting ISS to send someone to this office to further examine the situation, or to provide us with entirely new computer equipment from top to bottom. I am bringing this to your attention so that you will be in a position to appreciate the seriousness of the problem we are having, and so that you will not conclude that we are merely being derelict or inefficient when we are unable to produce reports you have requested on a timely basis.

Your assistance and consideration are appreciated.

cc: Jackie Shelton

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

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APR 28 1988

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EEOC
DISTRICT OFFICE

MEMORANDUM

To: District Directors

From: James H. Troy, Director
Office of Program Operations

Subj: District Directors Memo 84 - 88

CRITICAL PROGRAM ISSUES

Age Discrimination Claims Assistance Act of 1988 (ADCAA)

The ADCAA was enacted on April 7, 1988 when President Reagan signed it as Public Law 100-283. We are reviewing it and discussing its implementation in coordination with the Offices of General Counsel and Legal Counsel. You will be advised shortly regarding any role you may have in EEOC notification to charging parties and processing of applicable charges. Our plans are to minimize field office involvement in the notification process. However, you will be required to provide pertinent information regarding ADEA charges in the process since April 1986. We also will send specific instructions regarding format and methodology for your development of this information.

In the meantime this is to advise you that, as an exception to the order on Disposition of Records, you must not destroy any ADEA charge file of charges filed with the Commission since January 1, 1984 until further notice. If any of these charges are filed in court under ADCAA, EEOC records may be needed to prove timeliness of charge, to verify written notification prior to the expiration of the statute of limitations, or to provide any other evidence in record.

Hearing on ADEA "900" Charges

The Chairman and Commissioners testified at the March 29, 1988 hearing on EEOC's handling of charges filed under the ADEA. The Chairman reiterated that allowing the statute of limitations to expire on the ADEA charges was a very unhappy sequence of events for the Commission for which there was no excuse. He then stated that in an effort to ensure that the situation would not be allowed to recur we have taken the following steps - notices of expiration will routinely be sent to charging parties, better case management and case tracking systems would be put in place and Age cases will receive priority in processing over charges filed under other statutes.

Vice Chairman Silberman echoed the Chairman's assertion that there was no excuse to be offered for allowing charging parties rights to be lost and stated that there are new procedures of accountability which will include consideration of any charges in which the statute expired in the director's rating. The Chairman stated categorically that a director who allowed the statute to expire on any charge is not considered to be performing acceptably.

Several Commissioners and the counsel for the charging party who testified pointed out the need for additional resources if we are to keep up with our workload.

The Chairman of the Subcommittee, Congressman Lantos, advised the Chairman that a report must be submitted to the Subcommittee by September 15, 1988 on how the new case management system is working. You will receive guidance from Field Management Programs on the format to use in submitting information for the report.

Intake Rotation

Some of you find that having Enforcement Units spend two weeks in a row assigned to Intake functions has a detrimental effect on productivity which reaches beyond the relatively minimal time the Investigators spend taking charges. We call your attention to the guidance we sent you at the time (excerpt from June 2, 1987 memo at Attachment A). The memo states that units should be rotated into the charge receipt function for not more than two week periods. It is incumbent upon you to evaluate the situation in your own office to determine the number of investigators (not necessarily an entire unit) and the amount of time to be spent to obtain optimum performance. Those numbers are not the same for every office. Similarly, explore other managerial approaches to optimizing the efficiency and effectiveness of time spent in Intake. Some directors' find that a total restriction on scheduling any interviews, meetings, on-sites, etc. works best for them. Time spent taking charges is an integral part of our function. Make the best use of the time your staff is assigned to it.

Average Processing Time

Average processing time for charge resolution will be computed for the third and fourth quarters of FY 88. We will include only charges filed after January 1, 1988. 150 days will be the standard.

Case Management Plans

Attachment B to this memo is an outline of the basic requirements for a case tracking system. The system is based on data from the Local Data Base of your Charge Data System. Seven offices were chosen to pilot the system - Baltimore, Detroit, Memphis in the East and Seattle, Phoenix, St. Louis, and Los Angeles in the West. The implementation of this Chairman initiated program is a major focus for the agency for the next two years. Every office will be included by FY 89. The program is comprised of three segments. The first segment is implementation of a case tracking system which meets the basic criteria found at Attachment B. Once the case tracking system is in place in your district, staff from OPS will provide a three and a half day training program for your managers and supervisors on case development. You will hear more about the third segment, Management and Caseload Planning, at a later date. I repeat, this program is an agency priority. We expect to have these systems in place in all districts as soon as possible. Contact Jackie Shelton or me if you have any questions.

ADEA Charges in Deferral May 6, 1988

One prerequisite to contract payment for the processing of ADEA charges is that the FEPA must complete its processing within 18 months of the alleged violation. (See EEOC Order 916, Appendix C.) Since the FEPA is not eligible for payment for any ADEA charge in which the 18 month period has passed, you must have a system in place for monitoring these charges. Provide a brief description of your system to your Field Program Manager by May 6, 1988. If you do not have such a system in place, you must implement one before May 6.

Submission of Cause Cases

During OPO's last telephone conference with District Directors, we informed you that EEOC Headquarters is moving to a new address during the period of August to October, 1988. Offices will move in the order that they will be occupying the assigned floors. OPO will occupy the eighth and part of the ninth floor. We expect to move between September and October. The Chairman and the Commissioners will occupy the tenth floor and will move last. On the other hand, the Office of General Counsel is one of the earliest offices moving into the new building. Under these conditions and because of the consequent disruptions, it behooves us to plan ahead.

While in previous years you had a reasonable expectation that a cause case submitted to the General Counsel by August 15 would reach the Commissioners in time for action prior to September 30, this year you will need a wider margin.

I am sure that you have identified the cases in the enforcement units which you expect to forward to Headquarters during the last half of the fiscal year. Make extra effort to finalize compliance activity in these cases as soon as possible. If there is involvement of the legal units during the closing phase of the investigation, it will be easier for them to have the cases ready for transmittal to Headquarters by the middle of July. You should target your submission of presentation memoranda to Headquarters by no later than July 15, 1988.

You should compare the number of cause cases you have submitted so far to Headquarters during this fiscal year with previous years, then plan accordingly. We will contact OGC for the list of cases submitted to Headquarters as of March 31. Please forward your projection for the remainder of FY 88 in order that we may plan for Commission review this fiscal year in spite of the move.

Close coordination of efforts between the Director and the Regional Attorney is essential during the next few months to ensure the expeditious flow of cases to Headquarters. Some directors have found that weekly discussions on the status of all the identified cause cases minimizes unnecessary delays whether in the enforcement or the legal units.

Attachment C is a copy of a memorandum on this matter issued on May 6, 1987, which remains extremely applicable to this date.

IRCA

Once more I must raise a subject that by now should be routine processing for your offices. You are aware that we provide GAO with an updated report of charges related to IRCA on a quarterly basis. GAO's annual report to Congress, for which we provide much of the information, is a statutory requirement. Nevertheless, some of you consistently fail to follow the specific instructions we have previously given causing this office difficulties in fulfilling EEOC's obligations.

For example, we have expressly stated that to update means to bring up to date any charge previously reported and to provide all the necessary information on new charges filed since the previous report. We even provided you with examples and copies of reports to facilitate your updating and to show you the type of information needed on these cases. However, very few of you have followed this simple guidance.

More critical is the fact that some of you are not providing us with charges filed in your offices that are related to IRCA. We know for example that the Office of the Special Counsel forwards cases filed with them to some EEOC field offices. The Special Counsel also retains jurisdiction in these cases. Your offices did not report these charges. We also receive calls from members of your staff raising questions on specific cases which are not only not reported but where the office says there are none.

You must provide more specific instructions to your staff on how to recognize these charges, how to report them and to whom they are reported. Your area and local offices are not exempted from this obligation.

There is also indication that not all those who must provide information to the public have access to the most basic information on IRCA. Your offices received numerous pamphlets and other guidance on this matter. You must ensure that it is accessible to your staff and that they give correct information to the public.

You should take immediate steps to ensure that the next IRCA report, due in our office on June 30, conforms to our instructions.

Transmitting Data to the National Data Base

We were informed that some offices have only one person who knows how to transmit the extract data to the Collection Manager for loading into the NDB. This means, of course, that if that person is absent from the office, the transmission cannot be completed. The success of a function as critical as CDS cannot be dependent on a single individual. I strongly urge that any of you who have not already done so train at least one more person as a backup.

Reference Material for Area and Local Offices May 15, 1988

The Office of Management plans to order reference material for libraries in area and local offices. Please let us know what material you would like to have for them.

Change in Presentation Memorandum Package

Please review the attached memo (Attachment F) from Phil Sklover carefully. All supporting documents submitted with Presentation Memoranda must be numbered in accordance with the directions in Phil's memo.

Attachments:

A Excerpt from June 2, 1987 Memo on Reorganization
B Criteria for Case Tracking Systems
C Memo on Performance Standards
D Summary of Supreme Court Decision - Marino v. Ortiz
E EEO Mid-Year Summary
F Modification of Presentation Memoranda
G Letter on Quality from Private Sector

Local Coordinators should report to either an Enforcement Manager or higher level management official.

- In offices with heavy State and local volume, management may, in accordance with existing practice, relieve the volume of the substantial weight review process by assigning investigators from other units to assist in the performance of this function. In addition, as previously discussed, the CR/TIU supervisor may assist in the performance of the substantial weight review process.

Impact on Local Office Operations

- No change to local office operations is required by the reorganization. It should be noted however, that consistent with the addition of organizational titles to all compliance staff in district and area offices, local office EOSs shall similarly be titled "Investigators".

Charge Receipt Rotation

- District and area offices with three or more enforcement units may rotate the charge receipt responsibilities for one to two week periods among enforcement units and systemic units including the State and Local Coordinators. The period may be less than one week but not more than two weeks.

- State and Local Coordinators and systemic unit employees may be assigned to rotate at the same time or along with other units for charge receipt coverage.

- In order to balance assignments of employees to the charge receipt rotation, it may be necessary for management to assign employees from different enforcement units. In such cases, management may either designate the supervisor of one of the rotating units to review the charge receipt work products of all employees or have the employees' work reviewed by their individual supervisors.

- While offices will normally assign an entire unit to perform charge receipt duties for the period of rotation, management may designate employees to perform primary and backup functions within the unit. For example, specific employees may be assigned primary responsibility for walk-in PCPs on the first, third and fifth days of the rotation, while other employees will handle mail and telephone inquiries during these periods. These assignments will then switch to ensure equitable assignment of responsibility among all rotating employees.

- Back-up support to the rotating charge receipt enforcement unit will normally be provided by the supervisor of the unit covering the next rotational period.

- Federal Affirmative Action employees shall serve as secondary backup for charge receipt responsibilities.

- Charge receipt schedules shall be developed and distributed to allow sufficient notice to employees to plan case processing activities and leave schedules.

- To avoid delays and confusion, back-up personnel to the charge receipt function shall be scheduled in advance by office management. This will facilitate easy contact by the receptionist and more efficient service to the public.

- All rotating enforcement unit personnel are expected to be available, unless otherwise excused, to perform charge receipt duties during the period of rotation.

- Normally, rotating personnel <u>should take an affidavit from the charging party during the charge receipt process.</u> It is not expected that these affidavits must be typed. However, the affidavits should be written by the investigator, not the charging party, and affirmed or sworn to with appropriate notations.

- Enforcement unit supervisors shall rotate along with their units for purposes of reviewing the draft charges, charging party affidavits, intake notes and responses to written inquiries prepared by their unit employees. After charges are finalized and signed by the charging party, the Charge CR/TIU supervisor shall be responsible for completion of the administrative processing of the file (service of notices, etc.)for transmission to the appropriate enforcement unit.

- Typing support to the charge receipt function shall normally be performed by clericals in the CR/TIU, absent workload or other unusual considerations. In certain situations, the rotating unit clerical may assist with the typing. However, steps should be taken to ensure sufficient telephone coverage for the unit.

- During down time, employees rotating to handle charge receipt responsibilities shall be expected to perform normal charge processing activities (except actual face-to-face interviews of witnesses and on-site investigations unless previously approved by the supervisor). See discussion under GPAR Appraisal.

- To account for the actual time spent performing charge receipt duties, employees are required to complete a charge receipt time log (attached to the Field Reorganization Memorandum of Understanding) which is to be submitted to the supervisor on a daily basis.

- The charge receipt time log is the only form to be maintained by the employee for charge receipt time accountability purposes (See further discussion under Charge Receipt/Technical Information Unit on page 2 above).

- Supervisors are responsible to ensure that employees submit accurate information on the charge receipt time logs.

- Actual time spent performing charge receipt responsibilities as recorded on the log shall not be included in an employee's average case processing time computation.

- Employees may retain a copy of the log.

- In situations where the flexitime schedules of employees in a unit impact upon full coverage of the charge receipt responsibility during the rotational period, supervisors shall, before requiring a change to a work schedule, solicit volunteers. Supervisors shall be fair and equitable in making involuntary adjustments to employee work schedules to accommodate charge receipt functions. Such involuntary adjustments should also be made only when necessary and should be rotated among all unit employees.

- Offices should establish a system to ensure that all outstanding telephone and mail inquiries at the end of the day/rotation are listed by the rotating supervisor and turned over to the CR/TIU supervisor for appropriate response. The procedure adopted in each office should be firmly established and consistently followed.

- Rotating enforcement supervisors should ensure that employees performing charge receipt functions provide appropriate responses to all inquiries received in accordance with normal office practice and Agency procedure.

- Every attempt should be made to ensure that inquiries received from the public are responded to by investigators. This does not preclude use of Investigative Assistants (EOAs) to perform initial screening of inquiries. However, normal practice should provide that if an individual wishes to file a charge, the matter will be referred to an investigator.

- Management should build in safeguards to ensure that during the screening process, individuals are provided accurate and appropriate information. For example, this may include requiring an Investigative Assistant to check with the CR/TIU supervisor before informing a potential charging party that his/her complaint is not appropriately before the Commission.

ATTACHMENT B

BASIC CRITERIA FOR TRACKING SYSTEM

1. Must track and verify minimum basic charge data:

   - Statutes
   - Retaliation
   - Bases and Issues
   - Charge number
   - Charging Party name
   - Respondent name
   - Respondent type
   - Filing date
   - Date of alleged violation
   - Other

2. Must track identified key steps/outcomes of the investigative process:

   a. On-site investigations

   b. Posted notices

   c. Expedited investigations of retaliation

3. Must track for pending inventory by function, unit and EOS:

   a. Charge number, respondent name, and CP name (Active Charge three way locator).

   b. Office age (file date) and EOS age (assignment date) of each charge in office and with EOS, with 270 day charges flagged and counted for EOS, unit, function and office.

   c. Statute of limitations time for ADEA and EPA charges.

   d. Average age of charges for EOS, unit, function, and office.

   e. Total number of charges for EOS, unit, function, and office.

4. Must track and/or calculate for resolutions:

   a. Charge number, respondent name, and CP name (Closed Charge three way locator).

   b. Number and type of resolution of charges closed by EOS, unit, function and office for specified time period.

   c. Age at closure.

   d. Average age of all closures.

   e. Dollar benefits and persons benefitted.

   f. Percentage of administrative closures by EOS, unit, function and office.

   g. Breakdown by statute and type of closure for each unit and office.

5. Must be capable of producing on a periodic basis (monthly at a minimum) the following reports:

   a. Pending inventory sorted by Charge Number, Charging Party, and Respondent (3 Way Locator).

   b. Closures for specified period sorted by Charge Number, Charging Party, and Respondent (3 Way Locator).

   c. Pending inventory sorted by EOS, Unit, and Function with detailed information outlined in 2 above.

   d. Closures sorted by EOS, Unit and Function with details identified in 3 above.

   e. Listing of all charges which are or will be 270 days by September 30, sorted by EOS, Unit, and Function.

   f. Administrative Closures as defined for 396 reports.

   g. Listing of cause decisions with date of issuance of decision; date of issuance of conciliation proposal; date of conciliation conference (if one); conciliation outcome; and time lapses between stages of process.

6. Should have the capacity to provide on an as-needed basis optional reports to meet identified local needs of case management systems, e.g.:

   a. Charge Receipts for specified period sorted by Intake EOS.

   b. Charge Receipts for specified period sorted by Charge Number, with statutes, bases, issues, with 396 style summary of totals by statutes.

   c. Transfers from other offices, with 396 style summary of totals by statutes.

   d. Transfers to other offices, with 396 style summary of totals by statutes.

   e. Dates of identified key investigative milestones for pending or closed charges.

MAY 2 - 1988

MEMORANDUM

TO: Hermilo R. Gloria
Director
Phoenix District Office

FROM: James H. Troy
Director
Office of Program Operations

SUBJECT: FEPA Problems with HERO (Your Memorandum Dated 2/25/88)

I have discussed with Jacquelyn Shelton the subject memorandum from you dated 2/25/88. Your memo gives the distinct impression that we have not discussed this matter previously. As you are well aware, the problems surrounding both HERO and CDS have been discussed with you, other Directors, the Chairman, Office of Management, ISS and FEPAs. The reason that you have not received a personal response to previous correspondence is that the issues contained in your memorandum have been discussed in Directors' meetings, as well as various correspondence since the system's inception in 1985. Therefore, a personal response directly to you seemed unnecessary and redundant.

Your concern regarding OPO's interest in the consequences of denying contracts must be based on your myopic view of the overall deferral process and its effect on the Agency as a whole. All District Directors should be aware of the following:

a. FEP Agencies were given three opportunities to opt into the HERO system prior to the purchase and delivery of the NCR equipment. The clear understanding was that opting in carried a responsibility to input required data and assist in making the system work to the benefit of all; thus, the reason for our decision to deny contracts under certain circumstances.

b. FEP Agencies are required by their state laws or local ordinances to resolve the same charges that we pay them to process, and we are required to provide substantial weight to their findings. Therefore, the denial of contracts should not measurably increase the EEOC workload anymore

CONCURRENCES								
Initials ►								
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than does the current waiver process. Further, denial of contracts to those who do not input HERO would allow commensurate increases of contracts of those Agencies that complete the HERO functions as required. This means that EEOC overall could not lose in the process. Only three agencies, including Arizona, have come close to having their contracts denied.

c. Worksharing agreements can be easily altered, dependent upon the funding or contracting variables prevalent at the time. In fact, OPO is currently interested in having some of the worksharing agreements changed immediately because of current situations that have nothing to do with contracts.

Practically all personnel that are employed by EEOC and the FEPAs know that the system is not yet fully functional for various reasons, including consecutive annual budget restrictions. However, the agency has made a decision to use it and make it viable. The Chairman has directed that every effort be made to bring the system up to full utility as soon as possible. That necessarily means that all persons and organizations responsible for its function and use are expected to assist in such efforts. Though you are not expected to agree with all the decisions that are made, as a member of management, it is incumbent upon you to take whatever steps are within your range of responsibility and influence to implement and enhance the viability of those decisions.

Your comments, concerns and suggestions are always encouraged, appreciated and utilized in formulating positions. However, constant rehashing of ideas becomes at some point burdensome and ineffective. Greater care should be taken in the future in determining when this point is reached and when redundancy becomes futile.

cc: Jacquelyn Shelton

APR 28

OPO 347 LLR

CONCURRENCES

Initials								
Date								
Last Name								
Office								

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Jackie 5/11
FYI
Jim

EEOC DISTRICT OFFICE
CDS NDB CHARGE STATUS
(as of 4/29/88)

May 4, 1988

EAST

OFFICE NAME	NBR OF CHARGES ON NDB	LAST UPDATE	COMMENTS
Atlanta	7,747	4/23/88	
Baltimore	4,356	4/23/88	
Birmingham	5,307	3/28/88	On hold; bad data and duplicate records; Ken White writing program to clean up data base; will test program by 5/06
Charlotte	4,852	4/26/88	
Cleveland	4,542	4/26/88	
Detroit	6,048	4/27/88	
Memphis	4,400	4/26/88	
Miami	5,361	4/23/88	
New Orleans	5,842	4/26/88	
New York	5,316	4/23/88	
Philadelphia	3,749	4/28/88	
Total -	57,520		

WEST

Chicago	7,104	4/19/88	
Dallas	9,793	4/28/88	
Denver	4,112	4/27/88	
Houston	8,440	4/27/88	
Indianapolis	5,412	4/27/88	
Los Angeles	9,625	4/27/88	
Milwaukee	2,480	4/24/88	
Phoenix	4,451	4/27/88	
San Antonio	4,959	4/27/88	
San Francisco	4,648	4/27/88	
Seattle	3,464	2/23/88	Management Information Specialist has been out of town and working on other priority projects; will transmit 5/04 - (confirmed)
St. Louis	4,621	4/28/88	
Total -	69,109		
Grand Total -	126,629		

EEOC AREA AND LOCAL OFFICES'
CDS NDB CHARGE STATUS
(as of 4/29/88)

May 4, 1988

EAST

OFFICE NAME	NBR OF CHARGES ON NDB	LAST UPDATE	COMMENTS
Boston	2,607	4/19/88	
Buffalo	930	4/26/88	
Cincinnati	1,597	4/27/88	
Greensboro	815	4/26/88	
Greenville	571	4/27/88	
Jackson	3,412	4/26/88	
Little Rock	2,555	4/27/88	
Nashville	2,403	4/27/88	
Newark	1,443	4/26/88	
Norfolk	1,788	3/19/88	Transmitted 5/02 - (confirmed)
Pittsburgh	3,438	4/26/88	
Raleigh	2,053	4/26/88	
Richmond	2,211	4/26/88	
Tampa	3,365	4/27/88	
Washington	18	3/24/88	New Data Entry Operator will start work 5/4; about 1200 charges on Local Data Base; ISS will assist with transmission by 5/06 - (confirmed).
Total -	29,206		

WEST

Albuqueque	1,858	4/28/88	
El Paso	1,839	4/21/88	
Fresno	516	4/28/88	
Kansas City	3,929	4/27/88	
Louisville	2,104	4/27/88	
Minneapolis	1,490	4/27/88	
Oakland	1,337	4/21/88	
Oklahoma City	2,965	4/27/88	
San Diego	1,135	4/16/88	
San Jose	1,255	4/28/88	
Total -	18,428		
Grand Total -	47,634		

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MAY - 5 1988

M E M O R A N D M

TO : District, Area, Local Directors

FROM : James H. [illegible]
Director
Office of Program Operations

SUBJECT : Submission of Data for the Age Claims Act

We are completing the preparations to issue notices to Charging Parties affected by the Age Claims Assistance Act of 1988. As I previously informed you, we are keeping field offices' participation at this point to the minimum.

Enclosed is a pre-programmed disk or tape which will download information from your CDS data base. Specific instructions have been included.

The data to be collected are all age charges from FY 86 to April 7, 1988, including charging party's address, date of filing, date of violation, closure data and last action code. Once we obtain this basic information, we should be able to extract from it the names of all those charging parties who may be entitled to a notice under the Age Claims Act.

You should return the disk by DHL mail Monday, May 9. Send it to the attention of Doris Werwie, Office of Program Operations. Please note, any delays in this area may delay our ability to meet the law based timeframe (June 2) for issuing notices to the charging parties.

Once we obtain the names of all those charging parties to whom we are sending notices, we will provide you with a printout of those from your own offices. We will also send you further instructions as necessary.

Call your FMP Program Analyst

Instructions for installation and executing ADEA list report.

On ACR Systems:

Login as root

Enter your root password.

When you log in correctly a "#" prompt will appear on the screen.

Type in the following command: cd / (RETURN)

On disk versions:

Place the floppy disk into the drive.
The orientation of the disk will be that the label on the floppy disk will be facing the handle on the disk drive. After placing the floppy into the drive: close the handle on the floppy drive.

Type in the command: cpio -idmucv < /dev/rtask/0s0 (RETURN)

On tape versions:

Place the cartridge tape into the tape drive and close the door.

Type in the command: cpio -idmucv < /dev/rtp (RETURN)

You will see the following filenames appear on the screen:

/tap/finish
/appl/filepro/cdschg/out.ADEAlist
/appl/filepro/ccschg/prc.ACEAlist
/appl/filepro/cdschg/prc.ADEAsel
8 blocks

Type in the following command: /tap/finish (RETURN)

Read the message that appears on the screen and press (RETURN)

The ADEA report will start running against the CDS charge records. When the report is complete you will have to select either the tape or floppy drive to store the results of the report. It is intented for you to use the original media for storing the results of the report. If you encounter an error, please write down the error message. If you press (BREAK) or (DELETE) at any time during the loading or execution of this report you will have to restart the procedure by typing /tap/finish (RETURN) at the prompt.

After you have selected the tape or floppy you will see the message: Prepare to use the (tape or floppy) and press RETURN. If the save of the report fails, you will be asked to select the media again. Select the media and place a new tape or floppy into the drive. Upon successful completion of the save remove the tape or floppy from the drive and return it to Jim Troy's office.

On IBM systems:

Place the floppy into drive A: and close the door.

Go to the (:) prompt

Type the following command: cd \ (RETURN)

Type the following command: ainstall (RETURN)

You will see the following filenames appear on the screen

A:CDSCHG\ADEALIST.OUT
A:CDSCHG\ADEALIST.PRC
A:CDSCHG\ADEALIST.SEL
3 File(s) Copied

Please read the message on the screen and press (RETURN)

The report will run against the CDS charge data base.

Upon completion a message will appear on the screen, please read it and press (RETURN).

The results of the report will now be placed onto the floppy disk. When this is complete remove the floppy from the drive and send it back to Jim Troy's office.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MAY -5 1988

MEMORANDM

TO : District, Area, Local Directors

FROM : James H. Troy
Director
Office of Program Operations

SUBJECT : Submission of Data for the Age Claims Act

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The data to be collected are all age charges from FY 86 to April 7, 1988, including charging party's address, date of filing, date of violation, closure data and last action code. Once we obtain this basic information, we should be able to extract from it the names of all those charging parties who may be entitled to a notice under the Age Claims Act.

You should return the disk by DHL mail Monday, May 9. Send it to the attention of Doris Werwie, Office of Program Operations. Please note, any delays in this area may delay our ability to meet the law based timeframe (June 2) for issuing notices to the charging parties.

Once we obtain the names of all those charging parties to whom we are sending notices, we will provide you with a printout of those from your own offices. We will also send you further instructions as necessary.

Cyrin would like to meet w/ you tomorrow A.M. regarding this memo.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MAY 11 1988

MEMORANDUM

TO : John Seal
Management Director

FROM : Richard Kashurba, Director
Information Systems Services

SUBJECT: CDS Implementation Status (Monthly Feedback) Report

We are attaching a current report on the status of CDS implementation, including the status of the National Data Base Reload.

Attachment
cc: James Troy
Jackie Shelton

CDS IMPLEMENTATION STATUS REPORT

(MONTHLY FEEDBACK REPORT)

AS OF MAY 10, 1988

AS OF MAY 10, ALL FIELD OFFICES AND ALL BUT TWO FEPA OFFICES HAD BEEN RELOADED ONTO THE NDB. TESTING OF THE FILTER PROGRAM FOR MASSACHUSSETTS AND FLORIDA IS BEING CONDUCTED BY THE MASSACHUSSETTS OFFICE. SCHEDULED COMPLETION DATE FOR THE FILTER PROGRAM REMAINS JUNE 15. AS OF MAY 9, THE NDB CONTAINED A TOTAL OF 291,809 CHARGES.

DISTRIBUTION OF LDB SYSTEMIC, WORKLOAD AND HEARINGS 396 REPORTS INDEFINITELY POSTPONED DUE TO LACK OF FUNDS. COMPARISON OF NDB 396 REPORTS WITH MANUAL 396 REPORTS IS EXPECTED TO BE COMPLETED BY 5/31.

COMPLETION OF THE LDB PURGE UTILITY REMAINS 6 WEEKS BEHIND THE SCHEDULED 4/28 COMPLETION DATE. MINIFILE IS SCHEDULED FOR COMPLETION ON 7/9. HERO UPGRADE STATUS IS PENDING, DUE TO LACK OF FUNDS. INTAKE INTERFACE IS SCHEDULED FOR INSTALLATION AT LONG-TERM SITES BY 8/15. ALL PLANNED TRAINING IS ON HOLD PENDING AVAILABILITY OF FUNDS. DISTRIBUTION OF REVISED CDS DOCUMENTATION (INCLUDING CDS GUIDES FOR HEARINGS AND LEGAL UNITS) HAS BEEN DELAYED 2 WEEKS DUE TO ORA AND DRP DOCUMENTATION REQUIREMENTS. ISSUANCE OF NEW ORDER 244 IS SCHEDULED FOR END OF JUNE.

CDS HARDWARE UPGRADES FOR FIELD IS SCHEDULED FOR COMPLETION BY END OF AUGUST. FEPA HARDWARE UPGRADES ARE ON HOLD PENDING AVAILABILITY OF FUNDS, AS IS COMPLETION OF SPECIAL UTILITIES DOCUMENTATION.

MAY 1 1 1988

MEMORANDUM

TO: Doris W. Werwie
OPO

FROM: Lynn Bruner
District Director

SUBJECT: Submission of Data for Age Claims Act

This is to advise you that the St. Louis District Office has been experiencing problems with our computer since January 1, 1988. Rick Kashurba will be sending a completely new computer to this office on Friday May 13, 1988 to be delivered by Paul Aubrey.

Because of these problems, I cannot be certain that the data extracted on your disk for the Age claims Act is reliable. In fact, our testing of the computer shows that it is dropping certain fields of information for no apparent reason. In looking at the data requested on your disk, we find that most of the charges requested were closed well before the expiration of the statute of limitations and that several charges are listed which were deleted from the data base. It is also listing charges which were transferred from this District and are no longer under our jurisdiction.

Because the computer has been down for such a long period we are behind in our input. As a consequence some of our data is outdated, and once updated, would no longer appear in your data. In addition, there are certain fields of information missing altogether, which may be a problem of the computer itself. I thought you should have this information before you decided to rely on the list for contacting these people.

MAY 13 1988

MEMORANDUM

TO: John Seal
Management Director

THRU: James H. Troy, Director
Office of Program Operations

FROM: Jacquelyn J. Shelton, Director
Field Management Programs - West

SUBJECT: Upgrade of Existent Computer Equipment

There are three IBM-XT's assigned to this office. One of the three XT's is fitted with a 10 megabyte hard drive and 512k ram. Both of the other XT's have dual floppy drives with only 256k ram.

This office has an urgent need to develop several analytical and management modules to assist in our oversight responsibilities for the western EEOC field offices. We also need enhanced word processing capabilities without having to go through constant switching of disks; e.g. data disks, the spelling checker and thesaurus.

We need both of the dual floppy disk XT's upgraded to hard drive systems with enhancements as follows:

1. 30mb Hard drives. The hard drives are necessary for storage of software and maintenance of large data files on-line. The hard drives also provide the capability to down-load large data files from the field offices or the national data base. Further, purchase of 30mb hard drives is more cost effective than 20mb drives considering that the additional 10mb only costs approximately $40.00 more per drive.

2. Quadboards w/384k memory. The applications which we need to run require up to 640k to operate. The clock and calendar are standard with this upgrade.

3. Graphics Cards. Without a graphics card, the only software which we can use to do graphics or print graphics is Lotus 123. Lotus is too limiting. Several application packages that we would like to use require graphics capabilities.

4. Lotus 123. Unless we infringe on Lotus' copywrite, we need one copy of the software per hard drive machine. In the alternative, we would like to acquire "Surpass". Surpass is the same approximate cost as Lotus, but has more features, better graphics and is faster and easier to use. Surpass is totally compatible with Lotus files.

5. RDBMS. We will be in need of relational database management system software. Since R-Base is the Commission mainstay, we will accept the most recent version, i.e. R-Base for DOS.

CONCURRENCES									
	Initials								
	Date	5/12/88							
	Last Name								
	Office	FMP-W							

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U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

FILE COPY

MAY 13 1988

MEMORANDUM

TO : Deborah J. Graham
Director of Communications and Legislative Affairs

FROM : John Seal
Management Director

SUBJECT : FY88 CDS Costs

As a follow-up to yesterday's briefing with the Senate Special Committee on Aging, I want to confirm with them that the FY88 costs for the Charge Data System will be approximately $600,000 rather than the $810,000 we projected on April 18, 1988. This reduction was due to the suspension of our national data base operations with Parklawn for the remainder of the year in order to save needed FY88 funds. We will resume operations of the national data base as soon as additional funding is available.

Jim -
For your
signature.
Thanks

MAY 20 1988

MEMORANDUM

TO : James H. Troy, Director
Office Of Program Operations

FROM : Jacquelyn J. Shelton, Director
Field Management Programs - West

SUBJECT: Bi-Weekly Activity Report - Periods Ending 5/6/88 and 5/20/88

I. Program Activities

A. Completed as of 5/6/88:

Responded to a request for information from the Texas Sunset Advisory Commission (TSAC). TSAC requested the number and type of receipts and closures for Fiscal Year 1987 in our three Texas district offices. This information will be incorporated into a staff review of the TSAC.

Responded to 11 Congressionals, 8 Chairman Controlled letters, 1 Charging Party Inquiries and 1 General Correspondence.

Conferred with William Hale, Executive Director, Texas Commission on Human Rights concerning his dissatisfaction with mid-year modifications for his agency. Mr. Hale is still dissatisfied and plans to contact (if he has not already done so) the OPO Director to voice his concerns.

Conferred with SIICP concerning the need for additional staff to be place into the Dallas District Office's Systemic Unit to expedite processing of several major systemic charges. The acting director promptly effectuated the transfer of needed personnel.

Conducted an on-going interface with the Office of Audit, Employee Relations and the PMS director's office regarding sensitive personnel matters within the Dallas District Office.

Consulted with the LMRD on a number of labor relations matters, including conferring on several ULPs in the Albuquerque Area Office and discussions about GPARs and union representation in general.

Continued to finalize GS-1810 Position Descriptions in close coordination with PMS staff and other appropriate individuals.

Contacted appropriate field offices about the transfer and receipt of cases.

Participated in several meetings concerning various aspects of future Case Management Training for district offices, including the substantive content of instructional materials, selection of instructors and the training schedule.

Conferred with the Office of General Counsel on the detail of an attorney from the Legal Unit to an Administrative Law Judge position in the Indianapolis District Office.

Met with the Director of Personnel Management Services concerning the withdrawal of personnel authority from the Dallas District Office because of management problems in this area.

B. Completed as of 5/20/88:

Conducted a Quality Review of the Seattle District Office during the week of May 16-20.

Responded to 5 Congressionals, 6 Chairman Controlled letters, 1 Charging Party Inquiry and 1 General Correspondence Requests.

Provided an interface between headquarters and the Houston District Office to install a new Regional Attorney in an understudy position to the departing Regional Attorney in order to provide a transition period for the appointee to be briefed on the Legal Unit's litigation program, etc.

Participated as an EEOC representative in the Office of Personnel Management's (OPM) job fair for Presidential Management Interns (PMIs). Also, a staff member was involved in the interview process for new EEOC PMIs.

Recommended to the Houston District Office that consolidated charges against Trailways continue to be investigated and litigated, as appropriate, by Houston based on consultation with the Office of General Counsel. The Houston Office requested guidance on this matter.

Realigned staff assignments for the field as a result of a staff member's resignation to accept a position in the Baltimore District Office. As of 5/16/88 the field assignments below are in effect:

Ron Crenshaw	-	Phoenix Seattle
Everett Crosson	-	Denver San Francisco
Deidre Flippen	-	Houston
Sharon Miller	-	St. Louis
Boyce Nolan	-	Chicago Los Angeles
Geneva Smith	-	Dallas Milwaukee
Kermit Wheeler	-	Indianapolis San Antonio

Reviewed Position Descriptions for Systemic and DRP Investigators for all grade levels. Also, reviewed a Crediting Plan for CR/TIU Supervisors. Comments were given to appropriate staff.

II. Pending Decisions/Matters (as of 5/20/88)

Finalize Mid-Year Reviews for FMP-W district directors. Initial drafts for Seattle and Los Angeles have been completed. Mid-Year Reviews are being revised in a format consistent with the OPO Director's instructions.

Finalize Quality Review Trip Reports which are in various stages of completion. A final draft of the Kansas City portion of the St. Louis Report is being reviewed by the FMP-W Director. Initial drafts for Houston, Phoenix and the St. Louis Office have been completed by Program Analysts. An initial draft of the Denver Report is near completion.

III. Upcoming Activities (as of 5/20/88)

Finalize closeout reports for FY 1987 FMP Agency and TERO contracts.

Develop a computerized field staff tracking system for FMP-W.

Begin preparation of the Seattle District Office Quality Review Trip Report.

Attend a briefing session on EEOC's Administrative Grievance System conducted by PMS on June 6, 1988. All FMP-W Analysts are scheduled to attend.

Conduct Quality Reviews in the Chicago and Indianapolis District Offices on June 13-17 and June 20-24, respectively.

CONCURRENCES									
Initials	►								
Date	►								
Last Name	►								
Office	►								

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U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

JUN 1 1988

MEMORANDUM

TO : Deborah Graham
Director of Communications and Legislative Affairs

FROM : John Seal
Management Director

SUBJECT : Senate Special Committee on Aging

Jim Mitchie asked me today if we could produce FY83 and FY84 financial documents for the CSRS. Earlier, it was our understanding with him that the Committee would accept any analysis that had been done to show the CSRS costs so that we would not have to devote a lot of time to researching financial files. We provided the only analysis I could find on May 13 to you.

In my conversation with Jim today, I indicated I would find out how difficult it would be to track down the old financial documents. We estimate the process would consume 350 - 400 staff hours for this extensive research. We are willing to do it, but it will put a real drain on our operations and I think the Committee should be apprised of the cost.

RECEIVED
JUN 0 1 1988

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NEW ORLEANS DISTRICT OFFICE
701 LOYOLA AVENUE, SUITE 600
NEW ORLEANS, LOUISIANA 70113

FNO-ADM IN REPLY REFER TO
PER 1-1-4
MAN 10-2
PER 6-2
PER 12-3-1

MEMORANDUM

TO: _____
Investigator

THRU: Supervisor Littlejohn
Compliance Manager Wright

FROM: Patricia F. Bivins Bivins
District Director

DATE: June 9, 1988

SUBJECT: Resolution of Old Charges
CLOSURES

It appears that you are experiencing some difficulty, or have either failed or refused to follow the instructions given regarding PRIORITY processing of the charges listed on the attached printout.

Please review the listing and write-in the projected date of closure (before 9/20/88) then return a copy of the printout to me your Supervisor and your Compliance Manager by COB June 15, 1988. If a charge has ALREADY been closed please write-in the closure date and type of closure. (i.e. NC 4/30/88) If it is not assigned to you please show the date reassigned and to whom.

(6)

ALL OF THESE CASES MUST BE CLOSED BY SEPTEMBER 20, 1988. They must be given PRIORITY attention. If you cannot meet this deadline, you must notify me, in writing, of the reasons and of all efforts taken to appropriately and expeditiously close the charge. Your notification to me is due no later than July 25, 1988. I will meet with you within the next month to review and discuss your assignments.

If you need assistance, please contact your supervisor, Compliance Manager, and me, (in that order), as soon as you recognize the need.

Please see the attached printout for charges that are or will be "300 Days Old" if not closed by 9/30/88.

cc: M.I.S. Branch

; I also need at least 15 more good closures from you each month from now thru Sept 88. Please help me make this goal; I will reciprocate. You can do it! Will you? Bivins 6/9/88

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NEW ORLEANS DISTRICT OFFICE
701 LOYOLA AVENUE, SUITE 500
NEW ORLEANS, LOUISIANA 70113

IN REPLY REFER TO
FNO-ADM
PER 1-1-4
MAN 10-2
PER 6-2
PER 12-3-1

MEMORANDUM

TO: _____
Investigator

THRU: Supervisor Ball
Compliance Manager Rice

FROM: Patricia F. Bivins Bivins
District Director

DATE: June 9, 1988

SUBJECT: Resolution of Old Charges
CLOSURES

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cc: M.I.S. Branch

I also need at least 9 more (from you) each month, June thru Sept to meet qc. goals. Please help me meet this goal. I know you can. Will you? I will reciprocate. Bivins 6/9/88

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NEW ORLEANS DISTRICT OFFICE
701 LOYOLA AVENUE, SUITE 600
NEW ORLEANS, LOUISIANA 70113

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PER 6-2
PER 12-3-1

MEMORANDUM

TO: Investigator _____

THRU: Supervisor _____
Compliance Manager Knight

FROM: Patricia F. Bivins
District Director Bivins

DATE: June 9, 1988

SUBJECT: Resolution of Old Charges
CLOSURES

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Please see the attached printout for charges that are or will be "300 Days Old" if not closed by 9/30/88.

cc: M.I.S. Branch

I also need 15 more closures from you each month. Please help me make this goal - I will reciprocate. You can - Will you?

Bivins 6/9/88

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NEW ORLEANS DISTRICT OFFICE
701 LOYOLA AVENUE, SUITE 600
NEW ORLEANS, LOUISIANA 70113

FNO-ADM
PER 1-1-4
MAN 10-2
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PER 12-3-1

REPLY REFER TO

MEMORANDUM

TO: _____
Investigator

THRU: Supervisor Broussard
Compliance Manager Wright

FROM: Patricia F. Bivins
District Director Bivins

DATE: June 9, 1988

SUBJECT: Resolution of Old Charges
CLOSURES

It appears that you are experiencing some difficulty, or have either failed or refused to follow the instructions given regarding PRIORITY processing of the charges listed on the attached printout.

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Please see the attached printout for charges that are or will be "300 Days Old" if not closed by 9/30/88.

pc: M.I.S. Branch

I also need at least 12 more closures each month from now til Sept 88 from you. Please help me make this goal; I will reciprocate. You can do it. Will you? Bivins

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NEW ORLEANS DISTRICT OFFICE
701 LOYOLA AVENUE, SUITE 600
NEW ORLEANS, LOUISIANA 70113

IN REPLY REFER TO
FNO-ADM
PER 1-1-4
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PER 6-2
PER 12-3-1

MEMORANDUM

TO: _____
Investigator

THRU: Supervisor Bill
Compliance Manager Bee

FROM: Patricia F. Bivins
District Director Bivins

DATE: June 9, 1988

SUBJECT: Resolution of Old Charges
CLOSURES

It appears that you are experiencing some difficulty, or have either failed or refused to follow the instructions given regarding PRIORITY processing of the charges listed on the attached printout.

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cc: M.I.S. Branch

, I also need at 15 more closures each month from now thru Sept 88 - from you. Please help me make this office goal. I will reciprocate. You can do it. Will you? Bivins

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NEW ORLEANS DISTRICT OFFICE
701 LOYOLA AVENUE, SUITE 600
NEW ORLEANS, LOUISIANA 70113

FNO-ADM
PER 1-1-4
MAN 10-2
PER 6-2
PER 12-3-1

IN REPLY REFER TO

MEMORANDUM

TO: _____
Investigator

THRU: Supervisor Littleton Wright
Compliance Manager

FROM: Patricia F. Bivins Bivins
District Director

DATE: June 9, 1988

SUBJECT: Resolution of Old Charges
CLOSURES

It appears that you are experiencing some difficulty, or have either failed or refused to follow the instructions given regarding PRIORITY processing of the charges listed on the attached printout.

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cc: M.I.S. Branch

; I also need at least 15 more closures each month from now thru Sept 88. You can help me. Will you? I will reciprocate - you know I repay my debts! Bivins 6/9/88

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NEW ORLEANS DISTRICT OFFICE
701 LOYOLA AVENUE, SUITE 600
NEW ORLEANS, LOUISIANA 70113

FNO-ADM REPLY REFER TO
PER 1-1-4
MAN 10-2
PER 6-2
PER 12-3-1

MEMORANDUM

TO: [illegible]

THRU: Supervisor D. Williams
Compliance Manager Rice

FROM: Patricia F. Bivins
District Director Bivins

DATE: June 9, 1988

SUBJECT: Resolution of Old Charges
CLOSURES

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Please see the attached printout for charges that are or will be "300 Days Old" if not closed by 9/30/88.

cc: M.I.S. Branch

I also need at least 15 closures each month from now through September. Please help me make the office goals - Close at least 15 each month & I'm in your debt. Bivins

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NEW ORLEANS DISTRICT OFFICE
701 LOYOLA AVENUE, SUITE 600
NEW ORLEANS, LOUISIANA 70113

FNO-ADM
PER 1-1-4
MAN 10-2
PER 6-2
PER 12-3-1

MEMORANDUM

TO: Investigator

THRU: Supervisor Brainard Wright
Compliance Manager

FROM: Patricia F. Bivins
District Director Bivins

DATE: June 9, 1988

SUBJECT: Resolution of Old Charges
CLOSURES

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cc: M.I.S. Branch

I also need at least 9 more cases from you from now through Sept 88. Please try to help me make this Office goal. I will reciprocate. You can! Will you?

Bivins 6/9/88

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NEW ORLEANS DISTRICT OFFICE
701 LOYOLA AVENUE, SUITE 600
NEW ORLEANS, LOUISIANA 70113

FNO-ADM
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PER 12-3-1

REPLY REFER TO

MEMORANDUM

TO: Investigator _____

THRU: Supervisor D. Williams
Compliance Manager Vice

FROM: Patricia F. Bivins Bivins
District Director

DATE: June 9, 1988

SUBJECT: Resolution of Old Charges
CLOSURES

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Please see the attached printout for charges that are or will be "300 Days Old" if not closed by 9/30/88.

Close all ADEA charges where the statute is expiring 1st.

cc: M.I.S. Branch

I also need at least 10 more charges closed per month from now thru Sept. 88 from you. Please help me make this goal. I will reciprocate and help you. Will you help me?
Bivins 6/9/88

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NEW ORLEANS DISTRICT OFFICE

701 LOYOLA AVENUE, SUITE 600

NEW ORLEANS, LOUISIANA 70113

IN REPLY REFER TO
FNO-ADM
PER 1-1-4
MAN 10-2
PER 6-2
PER 12-3-1

MEMORANDUM

TO: Investigator _____

THRU: Supervisor Littlejohn
Compliance Manager Wright

FROM: Patricia F. Bivins
District Director Bivins

DATE: June 9, 1988

SUBJECT: Resolution of Old Charges
CLOSURES

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cc: M.I.S. Branch

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U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

June 10, 1988

Mr. James Michie
Chief Investigator
Senate Special Committee on Aging
G41 Dirksen Senate Office Building
Washington, DC 20510

Dear Jim:

Per your June 7 request, I am sending this letter to confirm "in writing" the date and reasons the national data base of the Equal Employment Opportunity Commission's charge data system was shut down.

EEOC's computer staff was directed on May 4 to suspend operations on the national data base and began shutdown procedures immediately thereafter.

Chairman Thomas suspended the national data base because:

. it was not fully meeting the agency's expectations. Chairman Thomas directed staff to focus efforts on obtaining a central computer to maintain the national computer base in-house rather than using an off-site computer mainframe.

. the savings from suspension of the national data base would provide needed savings for the agency.

The charge data system's local data bases are still being maintained in our field offices.

Sincerely,

Deborah J. Graham

Deborah J. Graham
Director of Communications
and Legislative Affairs

ALERT

DEDICATED AMERICANS KEEPING OUR COUNTRY STRONG

National Council of EEOC Locals #216 o AFGE (AFL-CIO)
99 Church St. o Room 1504 D o New York, New York 10007

For Immediate Release: June 23, 1988
Contact: Greg Kenefick (202) 347-7778
Edward A. Watkins (212) 264-7159

EEOC Enforcement To Halt Indefinitely In the Face of Forced Employee Furlough

All equal employment opportunity enforcement will come to a halt this summer if Congress fails to block plans by the Reagan Administration and EEOC Chairman Clarence Thomas to impose an employee furlough sometime between August 1 and September 30.

The Commission needs approximately $2 million that it does not have to pay employees for the remainder of fiscal year 1988, according to Edward A. Watkins, president of the American Federation of Government Employees (AFGE) National Council that represents EEOC employees.

Currently, the Commission's 3,100 employees face 60,000 cases pending with cases coming in at a rate of 1,500 a week throughout the system.

The Commission is expected to request that employees "voluntarily" take leave without pay in what Watkins called a "ridiculous and foolish move" to avert the furlough.

Watkins explained that employees are now "sweating through imposed work speedups and steadily rising caseloads." It's not likely, he said, that employees are going to line up to sacrifice themselves to pull the Commission out of this rut.

The union is urging civil rights organizations, other unions and public interest organizations, including the American Association of Retired Persons and the National Council of Senior Citizens to contact individual members of

Congress and the Senate--especially Sen. John Melcher (D-Mont), chairman of the Senate Special Committee on Aging and Rep. Neil Smith, chairman of the House Appropriations Subcommittee and Sen. John Stennis, chairman of the Senate Appropriations Committee--to initiate action to secure the necessary $2 million in supplemental funds.

Under an agreement between Congress and the Reagan Administration, supplemental appropriations are generally off limits. However, Watkins noted, Congress is partly responsible for a $14 million cut in the initial budget request by the Commission. "Therefore, Congress needs to reconsider whether civil rights enforcement is a top priority for the country or just an afterthought."

"Equal employment enforcement can't take a vacation, it's a round-the-clock responsibility that is already underfunded and poorly attended under the current Administration," Watkins declared.

The Equal Employment Opportunity Commission enforces Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, sex or national origin; the Age Discrimination in Employment Act, which protects persons 40 years or older; the Equal Pay Act, and prohibitions against federal sector discrimination affecting individuals with handicaps.

# # #

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MEMORANDUM July 20, 1988

TO : District Directors

FROM : James H. Troy, Director JHT for
Office of Program Operations

SUBJECT : District Directors Memorandum 88-#5

CRITICAL PROGRAM ISSUES:

Hearing on ADEA Charges Before the Senate Aging Committee

Senator Melcher (D-MT) called a two-day oversight hearing as part of the Senate Aging Committee's continuing investigation into allegations of EEOC mismanagement of age discrimination complaints. Chairman Thomas and five District Directors, among others, testified before the Committee on June 23 and 24. The following Committee members were present at varying points throughout the hearing: Senators Melcher (D-MT), Shelby (D-AL), Heinz (R-PA), Durenburger (R-MN), Chafee (R-RI), Simpson (R-WY), Grassley (R-IA), Pressler (R-SD), and Wilson (R-CA). The questions extended far beyond age discrimination to broader agency issues, including the charge data system (CDS), inventory build-up, and the results of the Quality of Worklife (QWL) survey.

Directors of the St. Louis, Birmingham, and Phoenix Districts, and former Region II Director, Joseph Bennett, were subpoenaed by the Committee and testified on June 23. Much of the discussion initiated by Chairman Melcher centered around the Charge Data System (CDS) and its efficiency and usefulness as a management tool. Each Director was asked whether his or her age cases fell through the cracks and, if so, why. Directors were also asked about their most recent performance ratings and why they believed they received them. Further, Directors were asked what progress the agency has made with regard to age cases as a result of the Age Discrimination Claims Assistance Act (ADCCA) of 1988. Please note that, by now, you should have received instructions and guidance on the processing of cases as a result of ADCCA. If you have not, contact Hilda D. Rodriguez at FTS 634-6831.

Two investigators, Levi Morrow (Dallas) and Vanessa Hannah (Birmingham) also testified. These discussions focused on EEOC training efforts and the results of the recent AFGE-sponsored QWL Survey. Questioning by the minority members, conducted primarily by Senator Heinz, centered on discussion of the management responsibilities and practices of EEOC District Directors.

The following day, two General Accounting Office (GAO) employees, detailed to Senator Melcher's staff, presented testimony describing their highly inconclusive analyses of (1) the EEOC documents recently submitted to the Aging Committee in response to the Senate subpoena, and (2) effectiveness of the CDS. District Directors from the Charlotte and Houston District Offices highlighted their successes with the CDS and EEOC management practices discussed the previous day.

Chairman Thomas wound up the two-day hearing by reiterating that District Directors should have the skills and most of the necessary tools to manage their office caseloads effectively. The Chairman compared the lapsing of a statute of limitations in the public and private sectors, noting that in the private sector such an action would not only cost the responsible party his or her job, but would also be grounds for revoking a license to practice law. The Chairman discussed how far this agency has come with regard to automation and emphasized that the QWL program was implemented to effectuate positive, constructive avenues for change within the agency. Chairman Thomas concluded his testimony by stating that if Congress funded EEOC at the marginally higher level requested by President Reagan, EEOC could get on with vigorously enforcing the law.

Senator Melcher has requested follow-up information and clarification on EEOC and FEPA charge/complaint processing, particularly in the area of age discrimination. The Office of Program Operations is currently developing responses to these requests. As you can see, age discrimination continues to be an important and timely area for discussion and debate. As such, all of us must be vigilant in our efforts to make definitive decisions regarding case processing in this area, and document our efforts.

Case Processing Priorities

The Office of Communications and Legislative Affairs has alerted me to frequently made statements that erode agency credibility. As you know, many times when Headquarters and the field respond to members of Congress, we explain delays in investigating charges in terms of our backlog and increasing workload. Sometimes these explanations go further, to state that our Investigators work on charges in the order that they are filed with the agency -- that is, first filed, first investigated. This explanation is incorrect in light of our sensitivity to ADEA charges approaching the statute of limitations. Also, there is discretionary authority for District Directors to establish priorities in processing charges. **Please alert your staff to the fact that it is permissible to state that charges may be frequently taken out of order to preserve other charging parties' rights.**

Additional OPO Responsibilities — **Action: August 15**

On July 5, 1988, Chairman Thomas directed the reorganization of the Office of Program Services and placed its functions within the Office of Program Operations. The purpose of the reorganization is to enhance the coordination of training and assistance in quality improvements across field offices. To begin our development of a workable training plan for FY 89, **please identify the training needs of your office as you see them at this point, and submit them to me by August 15.** Your report should state your requested training priorities by district, area, and local office, and include any additional information that you may consider necessary to support your request.

Quality of Worklife Survey — **Action: August 1**

The Joint National Quality of Work Life (QWL) Committee mailed you a memorandum, dated May 12, 1988, describing the QWL survey results and suggestions for using the survey data. **Please refer to this memorandum to make sure that you have clearly followed its instructions. You should have (1) made the data available for employee review and, (2) reviewed the results of the survey with your entire staff. Make absolutely sure that you have complied with the instructions to provide the Committee with a brief report on your efforts in this regard and the results (or anticipated results) of these efforts. I will be reviewing your reports; accordingly, if you have not submitted them as yet, please do so by August 8.**

Charge Receipt/Technical Information Unit — **Action: July 29**

It has repeatedly come to my attention - most recently at the Congressional oversight hearing described above - that Charge Receipt/Technical Information work is viewed negatively by Investigators. This attitude results largely from the perception that the charge receipt function is distinct and separate from the rest of the investigative process. It is your responsibility to dispel this false notion and instill in your staff the mentality that charge receipt is a critical function; it is the charge and the charging party's affidavit that set the course of the entire investigation. Accordingly, benefits will be reaped by carefully managing and developing each case from the point of charge receipt forward.

Your supervisors should periodically monitor the charge receipt and counseling process of each Investigator to ensure that the preliminary investigative functions are being fully met. Emphasize to your investigators that although a thorough charge receipt function does not typically take longer than one and a half hours, longer charge receipt interviews may be necessary, depending on the case in question. In these instances, if high quality investigative work is being performed, the more lengthy charge receipt process can only benefit and streamline the agency's investigative efforts in the long run by obtaining

critical information early in the investigation, at a time when the events in question are fresh in the charging party's memory. Such efforts obviate time-consuming and inefficient information-gathering further on down the line.

Investigators will also feel that their charge receipt assignment is more meaningful and productive when, where possible, they are assigned the charges they receive for completion of the investigative process. Such assignments give the investigator a "head start" on the investigation and obviate the need for rework by another investigator. In addition, you should efficiently utilize staff by assigning to intake only the number of investigators needed to promptly and adequately respond to inquiries from the public. The issue is not how time-consuming the charge receipt process is, but rather how efficiently your staff utilizes the initial hours of the investigation and how efficiently you use your staff.

In order to assess the impact of the rotation for the charge receipt function, we are requesting that the following information be provided:

o Description of the rotation plan now in effect in each office for the charge receipt function;

o List of the total time spent in the charge receipt function for each employee for the period May 2 through June 30, 1988;

o Copies of all "Charge Receipt Time Logs" for the May 2 through June 30 period. See page 10 of the June 2, 1987 Memorandum on Reorganization.

Materials should be packaged separately for each office within the District and forwarded to Hilda D. Rodriguez, Office of the Director, Office of Program Operations, by COB Friday, July 29.

Moreover, Investigators must continue to enhance their investigative skills and make accurate determinations at the point of charge receipt as to whether the charge is minimally sufficient. Effective time management and case development depends upon our ability to make accurate assessments upfront on acceptability of charge. If the charge is not minimally sufficient, the charge should not be taken. Further, highly experienced and professional investigators may be able to accurately conclude and explain to potential charging parties' satisfaction that, although the charge he or she wishes to file may be minimally sufficient, based upon all the facts there is no likelihood of ultimately prevailing.

Proposed Changes in Processing Federal Complaints

As you know, EEOC recently circulated the proposed 29 CFR Part 1614 regulations to other federal agencies for comment (refer to the attached preamble to the draft). The proposed regulations would, among other changes, reduce the number of decisionmaking levels within agencies, require agencies to reimburse EEOC when agency investigations are found to be inadequate, and extend the existing election of remedies system for filing complaints with EEOC or the Merit System Protection Board, where appropriate.

The regulations would also require federal agencies to investigate, attempt to resolve complaints, and issue notices of final action within 180 days. After that, complainants could pursue action in federal court or with the Office of Review and Appeals (ORA). This would mean that, unlike the present request-for-hearing system, EEOC would receive the complaint only once, i.e., after the employing agency issues a final decision. If the decision is appealed to ORA, the Director of ORA would make the decision as to whether to refer the case to a field office for further investigation (whereupon EEOC would be reimbursed) or to schedule a hearing.

It is anticipated that the new regulations, if implemented, will promote adherence among federal agencies to the more stringent standards of processing cases, with the emphasis on more timely, efficient, and high quality agency investigations. The Offices of Program Operations and Review and Appeals will jointly develop systems to effectively determine which cases should be referred for further investigation by EEOC. However, at this point, I envision that the Federal Sector staff will assume responsibility for such investigations.

We will provide you with more information and guidance, as necessary.

Request From Charging Party that EEOC Process a Charge After the Onset of an FEPA Investigation

During the Commission meeting of June 7, 1988, it came to my attention that, on occasions, field offices have refused the request of a charging party that EEOC assume jurisdiction of a charge being processed by an FEPA. Commissioner Cherian reported an egregious instance in which relief for a charging party has been delayed for a number of years because of our inaction.

Be reminded that where, under the terms of a worksharing agreement, an FEPA is initially processing a charge and the charging party requests that EEOC continues the investigation, EEOC should process the charge whenever we make a determination that FEPA processing is unsatisfactory. Processing can commence upon expiration of the statutory deferral period, or sooner, if the FEPA voluntarily terminates its processing of the charge upon request.

Contract credit will be given, in such instances, only where the FEPA has conducted a substantial investigation at the time it ceases processing of the charge (see EEOC Order 916, Appendix A, Section 4 I-F).

FEPA Contracts

We have received an inquiry from a District Office regarding the payment, during FY 1988, of age charges completed after 18 months of the date of violation.

EEOC Order 916, Appendix C, specifically states that:

"...the contracting Agency is required to complete its process within 18 months of the alleged violation...."

Please note that EEOC Order 916 must be strictly followed. It is incorporated into every EEOC contract. EEOC will, therefore, not credit FEPAs for age charges that are completed beyond 18 months of the date of violation. Further note that EEOC Order 916 is now being revised.

If you have any questions regarding this matter, please contact Robert Walker, Director, Program Development and Coordination Division, on FTS 634-6806.

OTHER PROGRAM ISSUES:

Case Development Training

The pilot session of the Case Development Training will be held this week in Memphis. Case Development Training was designed to reinforce ways in which managers and supervisors can ensure that EEOC investigations meet the highest standard of quality. We all agree that quality is achieved by assuring that substantive evidence is obtained in the most efficient and timely manner possible.

The Training was initially developed with the intention of providing uniform training to all our field offices during FY 88 and '89. In light of current budget considerations, we are only providing four field offices with the training in FY 88. We plan to complete the training as scheduled in FY 89.

The case management philosophy being conveyed in this course places increased emphasis on the affirmative role of supervisors and managers in the management and development of cases. This means that supervisors and managers must be actively involved at every step of the investigation, i.e., reading files as they are being developed and identifying substantive, procedural, or time-management problems in the investigative process as they occur, and not when the investigator turns in a file for final action.

Whether your office is receiving training at this point or not, we expect local management to ensure that the first line supervisors manage for quality and timeliness at each step in the investigative process. If managers and supervisors are doing their jobs correctly, rejection and rework of "completed" files should not occur.

OPO Telephone Conferences — Action: Resuming August 5

We will resume our monthly telephone conferences in August, through the rest of the fiscal year (refer to the dates listed below). The program analysts will contact you to verify telephone numbers for accuracy. Please be aware that the Regional Attorneys, at their recent conference in Annapolis, indicated a strong interest in participating in the monthly conference calls. While we have no problem with you having other managers participate, we do expect you to advise us of additional personnel who will be participating as the conference begins.

The telephone conferences will be held on the first Friday of each month, at 2:00 p.m., for the remainder of the fiscal year (i.e., August 5, September 2, and October 7).

Federal Sector Hearings: Update

The following data provides a national summary of Hearings activity for FY'88 to date:

- Hearings requests have decreased by 11.4 percent between the first and second quarter.
- FY'88 started with 3799 pending cases; 2479 new requests have been received to date; 2919 cases have been resolved; the third quarter ended with 3366 pending cases.
- The average closure rate per Administrative Judge is 74.8 percent on a projected annual basis.
- Closures by bench decision continue to increase: 40.7 percent (416) of the 1023 recommended decisions issued were bench decisions.

Determinations Review Program: Update

The following data provides a national summary of Determinations Review activity between August, 1, 1987 and June 30, 1988:

- DRP has received 6539 reviews and closed 3063 reviews -- or 47 percent of its caseload -- during this period.
- Of the 3063 total reviews closed, DRP issued 2579 decisions and closed 484 reviews administratively; productivity is increasing steadily.
- Of the total 2579 decision issued, 13 District Office determinations were reversed.
- DRP remanded 187 files to the field.

MANAGEMENT ISSUES:

Managerial Behavior

A Federal District Court recently ruled in the Commission's favor in a matter which should be duly noted by all EEOC managers. The Court's decision supported the Agency's termination of a manager in a District Office for verbally abusing employees under his supervision. Testimony revealed that the manager directed racially and sexually specific epithets and yelled at employees on several occasions. In addition, employees testified that they were threatened with loss of their jobs and were subjected to other verbal abuses over a long period of time.

The trial served to remind us that such conduct is directly inimical to the purpose, mission, and intent of this Commission and cannot be tolerated to any degree at any organizational level within the Agency. You are expected to take prompt and decisive action any time that you become aware of such behavior in offices under your jurisdiction. All employees should be advised of the Commission's concern in this regard.

STAFFING: Interns, Vacancies and Hiring Freeze

Legal Interns

If you are utilizing the legal intern slot allocated to your office, be aware that it is a part-time slot. Accordingly, if you have hired a legal intern on a full-time work schedule in lieu of another vacant position in the office, you must submit a request for personnel action to change the work hours.

Vacancies/Hiring Freeze

By now you all should have received Chairman Thomas' memorandum of July 6 regarding the hiring freeze affecting all field offices. This is a total freeze on the hiring of professional and technical positions. There are no exceptions until further notice. Please note that clerical positions are not included in the freeze. Clerical positions are defined as positions with one-grade intervals that include typing responsibilities. Clerical positions include the following: Secretaries, Clerk-Typists, Investigator Assistants, Management Information Assistants, Personnel Clerks, Legal Clerks, Legal Docket Clerks, Computer Clerks and Data Transcribers.

Field Management Programs (East and West) are currently compiling a must-fill list of vacancies for discussion with Chairman Thomas. Please contact the program analysts with any specific staffing needs in your office of which they are not already aware.

In addition to the Chairman's request for staffing charts, continue submitting weekly staffing reports to Field Management Programs (East and West). Be sure to list specific vacancies and add the reason for the vacancy (e.g., slot never filled, resignation, retirement, termination/reasons).

Status of 1810 Investigator Series

The implementation of the 1810 Investigator series is well underway. The series has been approved, the new crediting plans are being finalized (and will be forwarded to you upon completion), and the position descriptions have been redrafted to accurately reflect the duties and responsibilities of the EEOC Investigator and Supervisory Investigator. Please pay attention to these carefully drafted position descriptions and make sure that your supervisors and managers are fully knowledgeable of the job requirements contained therein.

GPAR Report — Action: By July 29

After each time that we have negotiated performance agreements for bargaining unit employees, some District Directors have informed us of their desire to have had the opportunity to provide substantive suggestions to management's proposal. We will soon develop new proposals for GPAR performance plans and standardized PMRS plans. The Office of Personnel Management Services is convening a work group to crystallize management's thinking in this regard. This group includes three OPO representatives and will begin their discussion this week.

Realizing that the elements of your agreements will not change this year, you may wish to have "before the fact" input into our proposed GPAR plans. Please review with your management staffs your experience with GPAR during this rating period and decide any alternations you would like to make in future performance plans. Forward your suggestions to Field Management Programs (East and West) by July 29.

Routing of Correspondence

To minimize confusion over receipt of correspondence between the field and Headquarters -- particularly where a deadline date is imposed -- please route all Headquarter correspondence to the appropriate Field Management Program Director and/or Program Analyst unless you are specifically directed to route it to me. Use a cover memorandum or routing slip to clarify for whom the correspondence is intended.

Must Reading

- Watson Decision v. Fort Worth Bank and Trust (Docket No. 86-6139 S.Court #866139, June 29, 1988)
- EEOC v. Commercial Office Products (46 FEP 1265)

Attachments

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MEMORANDUM August 22, 1988

TO : District Directors

FROM : James H. Troy, Director
Office of Program Operations

SUBJECT : District Directors Memorandum 88-86

THIRD QUARTER REVIEW

The Office of Program Operations (OPO) has completed its preliminary review of the charge processing statistics through the third quarter of FY '88. To summarize, EEOC received 47,918 charges during the first three quarters, or 344 more than the number of charges received during the same period last fiscal year. EEOC had 44,543 charge receipts to process, or .4 percent less receipts to process than last year. Approximately 73 percent of the receipts to process were filed under Title VII; 19.4 percent were ADEA receipts to process; .3 percent were EPA, and the remainder were concurrent charges. The Fair Employment Practices Agencies (FEPAs) received 39,318 total charges, representing 45.1 percent of the combined EEOC/FEPA receipts.

EEOC resolved 48,362 charges during the first three quarters, or 28.5 percent more closures than at the end of the third quarter last fiscal year. The 47.2 percent no cause or no violation rate represents a drop of 8.1 percent from the FY 87 rate. Two hundred fifty three of the 1090 cause determinations resulted in successful conciliations; 431 Presentation Memoranda were forwarded to the Office of General Counsel, representing an increase of 24.9 percent over the number forwarded at the end of the third quarter last year; the rate of negotiated settlements remained the same as in the second quarter at 6.9 percent; and, the administrative closure rate has increased by 10 percent over last year's rate to 37.7 percent.

The agency showed a marked decrease in pending inventory during the third quarter of FY '88. There were 60,120 pending charges at the end of the third quarter, down from the second quarter figure of 63,704. The inventory has decreased by 3.0 percent since the beginning of the fiscal year but remains up 6.6 percent from a year ago. The percentage of aged inventory increased from 26 percent of the inventory being over 300 days old at the end of FY '87 to 37.7 percent of the inventory being over 270 days old at the end of the third quarter of FY '88. This increase, of course, partially reflects the change in the accountability standards for aged inventory.

Finally, $46,341,609 in monetary benefits were obtained through the administrative process during the first three quarters of FY '88, up 43.9 percent over the amount obtained during the same period in FY '87.

As we proceed into the fourth quarter of the fiscal year, we have our work cut out for us. It is unfortunate that, due to statutory requirements, we are obligated to report on program activities related to the Age Discrimination Claims Assistance Act (ADCAA) and the Immigration Reform and Control Act (IRCA) during this busy period (the reporting requirements are described below). Nonetheless, it is critical to fully comply with our statutory obligations and complete our enforcement activities for this fiscal year according to the standards of efficiency, quality and professionalism to which this agency holds itself.

NOTE: Be aware that you are no longer required to submit a separate quarterly report to the Chairman on your district-wide activities. Such reports will be requested individually, as needed by the Chairman.

CRITICAL PROGRAM ISSUES

Case Management System

As you are aware, the Commission's case management initiative should be fully implemented in all offices by this time. We have received the printouts requested in our recent memorandum from most of the Districts, which indicate to us that; (a) the system works and, (b) that our investment in the Charlotte training and follow up visits to some Districts were fruitful. We firmly believe that an accurate charge tracking system, through CDS, is the threshold step toward better management of large inventories, more efficient use of staff resources, and assurance of quality work products. The importance of our development and implementation of a sound tracking system cannot be overstated.

Therefore, this is a reminder that implementation of the tracking system, described and discussed in Charlotte, is not optional. Field Management Programs has been directed to review and report steps taken by Districts to fully develop and implement the system as an integral part of the on-site review process. It is expected that each office, through CDS, will be able to track and verify minimum basic charge data, track identified key steps or outcomes of the investigative process, track pending inventory by function, unit, and investigator, and track resolutions in various ways...all described during the Charlotte training or on-site in those Districts visited by headquarters and Charlotte staff. In addition, each office must be able to produce, on a periodic basis (monthly at a minimum), the reports identified during the training and other reports that you deem important to your daily operation.

We expect this system to serve as an effective and efficient tool in the management of our overall workload and will be available to render necessary assistance to ensure its thorough development and implementation. Our next separate venture is completion of case development training, which has already been piloted, throughout the field during the fall.

Age Discrimination Claims Assistance Act ACTION: By October 6

In recent weeks, some of you have received correspondence, forwarded by OPO, from charging parties who received notices under ADCAA requirements. In response to this correspondence, you are to take appropriate action as indicated in our June 22, 1988 memorandum, "Guidance on Processing of ADEA Charges". We informed charging parties that there would be some future contact from our field offices. Please ensure that there is follow up to these inquiries.

ADCAA also requires that we report to Congress three times over a 540 day period on EEOC activities related to the Act. The first date for this report is October 4, 1988. We have 30 days after this date to file our report. We are attaching a blank form to collect field activity information on charges affected by ADCAA and an example illustrating how the form should be filled out. This form should simplify your data gathering and our organizational efforts. The information must be accurate and complete on charges through September 30, 1988, and received in this office no later than October 6, 1988. Send the information to the attention of Hilda Rodriguez.

Immigration Reform and Control Act ACTION: September 23

Once again, it is time to update our quarterly report on IRCA. The General Accounting Office (GAO) must provide Congress with its second annual report the first week of November, 1988. Therefore, EEOC must be prepared with the necessary information by the first week of October. Like last year, update your report on charges related to IRCA as of September 15. This information is due in OPO by September 23. Send it to the attention of Rebecca Short.

Be reminded that in recent fiscal quarters, it has been necessary to call various offices either to get information or to clarify information. To meet our commitment with GAO, please ensure that district-wide updated information is sent to OPO in a complete and timely manner. Those of you who require information from your most current report should call Rebecca at FTS 634-6831.

ADEA/EPA Files Received in DRP

As discussed during our conference call of August 5, files are still being received in the Determinations Review Program (DRP) with ADEA and/or EPA charges quickly approaching the statute of limitations due dates. This practice is, of course, unacceptable, particularly when a field office has had reasonable time since the filing of the charge to complete the investigation. If DRP has less than 60 days from the date the statute runs out to review files, the review may be impractical if the two years are exceeded. In such cases, charging parties should be well advised as to the merits of filing with DRP as compared to filing in court.

Accordingly, it is advisable to make every effort to issue ADEA/EPA decisions at least 120 days prior to the expiration of the two year statute violation date. Also, continue to identify all ADEA/EPA case files on appeal to DRP by indicating the appropriate statute in bold print on the cover of the files.

Finally, make absolutely sure that ADEA and EPA caseloads are managed according to the guidance provided in the January 22, 1988 memorandum so that charges are received in DRP in a timely manner and charging parties are afforded their full rights under the review procedures.

ADEA Investigations

It has come to my attention that, in some ADEA investigations, there is evidence that Charging Parties have been terminated or not recalled in an effort to prevent them from becoming 100 percent vested in pension benefit plans. As you know, pension eligibility, including vesting, is an age-related factor that can be used to discriminate against workers in the protected age group, often in subtle ways. However, many times the charging party may not be aware of the vesting status of other employees. Staff should be reminded to inquire about this possibility in appropriate situations so that the possibility of discrimination will not be masked.

OTHER PROGRAM MATTERS

Federal Sector Programs Data Collection Requirements
ACTION: Beginning First Quarter of FY '89

In our conference call of August 8 and in a recent memorandum dated August 17, I informed you that hearings data will be captured on CDS by the end of this fiscal year. We will no longer be making use of the computer disc distributed in the last fiscal year for the purpose of collecting uniform, nationwide federal sector data. Rather, input all hearings-related data into CDS.

Among other OPO efforts to set up standard means for enhancing quality control over a period of time is the requirement to submit a copy of each hearings decision -- bench or otherwise, at the time the decision is rendered by an Administrative Judge-- to the Office of Federal Sector Programs (FSP), beginning October 1. Effective the first quarter of FY '89, FSP will be conducting a review of hearings decisions. Please refer to the August 17 and West). A consolidated response will be developed at the Headquarters level.

Personnel Ceilings

As you are sorely aware, OPO has been directed to reduce field office personnel ceilings by a total of 318 positions to avoid more serious corrective measures in the future because of our anticipated budget allocation for FY '89. The Office of Program Operations and the Office of General Counsel have provided Chairman Thomas with a report describing these FTE reductions. We do not anticipate the need for a reduction in force. Although each of you could persuasively argue for more staff, the unfortunate reality is that, given current budget limitations, we cannot survive as an agency if we do not lower personnel ceilings while still maintaining high quality and efficiency in FY '89.

Hearing on Federal Government Recruitment Proposal

Chairman Thomas recently testified before the House Civil Service Subcommittee in support of a proposal by the Office of Personnel Management (OPM) for revising recruitment strategies for entry level positions in the federal government.

Under the proposal, hiring would be based on (1) the results of a two-part government-administered examination (i.e., job specific questions and leadership measures), or (2) grade point average (GPA), or (3) both. Individuals with GPAs higher than an as-yet-to-be-determined minimum - somewhere between 3.2 and 3.5 on a 4.0 scale - could be hired on the spot. The program is designed to target college graduates for GS level 5 and 7 positions. The proposal was publicly released at the same time the Merit Systems Protection Board (MSPB) issued the results of a study entitled, "Attracting Quality Graduates to the Federal Government: a View of College Recruiting". The MSPB report concludes that college graduates are not entering federal service because of noncompetitive pay, a negative image associated with working for the federal government, and poor recruitment methods.

Chairman Thomas praised the proposal for offering federal government managers more of the kind of hiring flexibility that is currently found only in the private sector. The Chairman further stated that because managers can seek out qualified individuals under the program, more women and minorities will be drawn and recruited to the federal service.

Critics of the proposal argue that the proposal would not aid minority hiring and would increase nepotism in the government.

Training Report Information ACTION: By September 15

The fiscal year 1988 training information will be entered into a computerized training data base that will yield individual, office, and OPO-wide summary data. Use the attached forms to submit the District Office Training Report no later than September 15. Submit this information to Lawrence Koziars, Deputy Director, Office of Performance Services, Room 340.

District Newsletter

In the District Directors' Memorandum of October, 1987, we attached a copy of the Charlotte District Office newsletter for your review and information. Once again, we are attaching a recent Charlotte newsletter to show you how it has developed in cooperation with the Charlotte Office staff. Similar methods to keep employees informed and recognize individual accomplishment may work well in other offices.

Hiring of New Personnel

We have received questions regarding the hiring of new personnel. To clarify any confusion, information you have received from the Directors of Field Management Programs (East and West) advising you that there will be no hiring actions without specific approval still stands until further notice. Please note, however, that positions vacated by Upward Mobility Program selections may be filled.

Field Office Reference Materials ACTION: August 31

In the April 28 Memorandum, we requested information on library reference materials that we have not yet received. Currently, each district, area and local office receives a copy of the Daily Labor Report, CCH Employment Practices Guide, and CCH Compliance Manual. Further, an average district office receives between 20 and 50 additional publications (see attached). Carefully review the publications your office receives and indicate which subscriptions can be reduced or eliminated. Please provide the Field Management Program analysts with feedback on this matter by Friday, August 31.

INFORMATION FROM THE GENERAL COUNSEL

Procurement Orders

Last week, the General Counsel requested that each Regional Attorney review every procurement order on litigation support funds and deobligate any unliquidated balance, as appropriate. Your Administrative Officer received a copy of the request. Some of these obligations have been pending resolution for several months. Ensure that the processing of necessary documents is completed expeditiously.

Request for Information on ABT Freight Services, INC.
ACTION: By August 31

Systemic Litigation Services (SLS) is monitoring a consent decree on ABT Freight Services, also known as Arkansas Best Freight System. To properly evaluate Respondent's reports, SLS is requesting your assistance to determine whether there are recent charges against Respondent.

You are to search your CDS files district-wide for any charges filed since 1986 against subject Respondent. Please submit, by August 31, a list of charges by charge number, charging party, date of filing, bases, issues, and current status.

Send a list of the charges or negative report to the Directors of Field Management Programs (East and West), to the attention of Ms. Sandra Little, OGC.

ADEA Charges Against General Electric ACTION: September 16

We have recently received an inquiry from one of our Commissioners regarding a concern that General Electric might be engaged in a systemic program of staff reduction that violates ADEA. In following up on this matter, OGC requests that each of you review your outstanding, or recently concluded, ADEA charges, and advise us of any that involve General Electric. The information should include (1) the number of charges, (2) specific issues(s) raised, (3) whether the charge(s) is individual or class, (4) the location of the facility, and (5) the date(s) of the alleged violation(s).

OGC would also be interested in knowing whether you have any ADEA lawsuits against General Electric, and, if so, the nature of the issues.

OGC has promised to draft a preliminary report within 30 days. Therefore, please submit this information to the Directors of Field Management Programs (East and West), to the attention of Dick Freeman, OGC, by September 16.

Must Reading

Recent decision in Anderson v. Montgomery Ward & Co., No. 87-1297 (7th Cir. July 25, 1988). (Attached)

Settlement in Equal Employment Opportunity Commission v. Rome Corporation, Civil Action No. PN-87-1325. (Attached)

Amicus brief in Miller v. Aluminum Co. of America, 3d Cir. No 88-3099 (July 22, 1988). (Received by Regional Attorneys)

FINAL: 05-Aug-88

Closures By Type Third Quarter FY 1988	Enforcement Function - Summary															
	Total	(a) Settlements		(b) Withdrawals W/Benefits		(c) Successful Conciliations		(d) Unsuccessful Conciliations		(a thru d) Total Merit Factor Closures		(e) No Cause		(f) Administrative	
Office		#	%	#	%	#	%	#	%	#	%	#	%	#	%
Atlanta	2,760	117	4.2%	107	3.9%	5	0.2%	29	1.1%	258	9.3%	1,820	65.9%	682	24.7%
Savannah	30	4	13.3%	3	10.0%	0	0.0%	0	0.0%	7	23.3%	0	0.0%	23	76.7%
Baltimore	1,169	38	3.3%	103	8.8%	3	0.3%	117	10.0%	261	22.3%	569	48.7%	339	29.0%
Norfolk	688	54	7.8%	38	5.5%	5	0.7%	17	2.5%	114	16.6%	354	51.5%	220	32.0%
Richmond	746	35	4.7%	122	16.4%	1	0.1%	7	0.9%	165	22.1%	223	29.9%	358	48.0%
Washington	315	11	3.5%	58	18.4%	2	0.6%	4	1.3%	75	23.8%	86	27.3%	154	48.9%
Birmingham	1,213	20	1.6%	152	12.5%	3	0.2%	10	0.8%	185	15.3%	318	26.2%	710	58.5%
Jackson	1,044	158	15.1%	40	3.8%	1	0.1%	27	2.6%	226	21.6%	517	49.5%	301	28.8%
Charlotte	1,656	338	20.4%	178	10.7%	18	1.1%	15	0.9%	549	33.2%	815	49.2%	292	17.6%
Greensboro	310	19	6.1%	25	8.1%	0	0.0%	0	0.0%	44	14.2%	225	72.6%	41	13.2%
Greenville	192	29	15.1%	4	2.1%	3	1.6%	5	2.6%	41	21.4%	95	49.5%	56	29.2%
Raleigh	781	116	14.9%	74	9.5%	3	0.4%	5	0.6%	198	25.4%	379	48.5%	204	26.1%
Cleveland	1,200	59	4.9%	63	5.3%	1	0.1%	22	1.8%	145	12.1%	457	38.1%	598	49.8%
Cincinnati	635	61	9.6%	34	5.4%	0	0.0%	2	0.3%	97	15.3%	281	44.3%	257	40.5%
Detroit	1,992	165	13.8%	48	4.0%	6	0.5%	9	0.8%	228	19.1%	278	23.3%	686	57.4%
Memphis	1,053	193	18.3%	66	6.3%	3	0.3%	6	0.6%	268	25.5%	440	41.8%	345	32.8%
Little Rock	925	53	5.7%	21	2.3%	3	0.3%	11	1.2%	88	9.5%	613	66.3%	224	24.2%
Nashville	721	65	9.0%	37	5.1%	2	0.3%	19	2.6%	123	17.1%	396	54.6%	204	28.3%
Miami	1,297	90	6.9%	54	4.2%	10	0.8%	9	0.7%	163	12.6%	784	60.4%	350	27.0%
Tampa	754	26	3.4%	35	4.6%	2	0.3%	13	1.7%	76	10.1%	425	56.1%	255	33.8%
New Orleans	1,146	28	2.4%	66	5.8%	8	0.7%	14	1.2%	116	10.1%	694	60.6%	336	29.3%
New York	1,058	49	4.6%	50	4.7%	4	0.4%	14	1.3%	117	11.1%	359	33.9%	582	55.0%
Boston	386	20	5.2%	14	3.6%	5	1.3%	88	22.8%	127	32.9%	129	33.4%	130	33.7%
Buffalo	188	13	6.9%	6	3.2%	1	0.5%	0	0.0%	20	10.6%	68	36.2%	100	53.2%
Philadelphia	1,049	50	4.8%	56	5.3%	9	0.9%	25	2.4%	140	13.3%	597	56.9%	312	29.7%
Newark	563	26	4.6%	49	8.7%	9	1.6%	8	1.4%	92	16.3%	338	60.0%	133	23.6%
Pittsburgh	1,150	163	14.2%	35	3.0%	10	0.9%	56	4.9%	264	23.0%	557	48.4%	329	28.6%
Total East	24,221	2,000	8.3%	1,538	6.3%	117	0.5%	532	2.2%	4,187	17.3%	11,813	48.8%	8,221	33.9%

BIRMINGHAM DISTRICT OFFICE
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
[illegible] AVENUE, NORTH
[illegible], ALABAMA [illegible]

August 26, 1988

MEMORANDUM

TO : James H. Troy, Director
Office of Program Operations

FROM : Donald W. Muse, Director
Birmingham District Office

SUBJECT : District Directors Memorandum #88-6

The third quarter statistics listed in the second paragraph of the above memorandum are incorrect in that the aggregate total of the four charge resolution processes (Unsuccessful/Successful Conciliatons are closures) only total 45,486, not 48,362; also, the total percentages listed total only 94% rather than 100%. These incorrect totals skew the following paragraph pertaining to inventory reduction if the total resolutions are 45,486 rather than 48,362.

48362 x	47.2%	=	22,826.86	No Cause/No Violation
48362 x	2.253%	=	1,090.	Cause (not closing codes)
48362 x	6.9%	=	3,336.98	Negotiated Settlements
48362 x	37.7%	=	18,232.47	Administrative Closures
	94.053%	=	45,486.	
	5.95%	=	2,877.54	Not accounted for.
Total	100.003%		48,363.	

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

MEMORANDUM

August 31, 1988

TO : Donald W. Muse, Director
Birmingham District Office

FROM : James H. Troy
Program Director

SUBJECT : Clarification of District Directors Memorandum #88-6

We have received your memorandum of August 26, 1988, which provides us with your calculations of third quarter statistics based on information listed in the second paragraph of the above cited memorandum.

The third quarter statistics listed in the District Directors Memorandum are correct. We did not attempt to provide District Directors with a detailed breakdown of third quarter statistics; rather, our intentions were to provide Directors with a summary overview of productivity to date, and a general basis for comparing productivity between FY'87 and '88. Accordingly, we did not include two of the charge resolution categories in the District Directors Memorandum (i.e., Withdrawals with Benefits and Unsuccessful Conciliations). The aggregate total of 48,362 resolutions listed in the memorandum includes these two additional categories, which account for the disparity between the total you arrived at (45,486) and the actual total (48,362).

For your information, a complete breakdown of third quarter resolutions is provided on the attached page.

Thank you for your interest in EEOC charge processing statistics.

THIRD QUARTER RESOLUTIONS

CHARGE RESOLUTION CATEGORY	NUMBER	PERCENT
NO CAUSE/NO VIOLATION	22,815	47.2
NEGOTIATED SETTLEMENTS	3,346	6.9
WITHDRAWALS WITH BENEFITS	2,918	6.0
SUCCESSFUL CONCILIATIONS[1]	253	0.5
UNSUCCESSFUL CONCILIATIONS	786	1.6
ADMINISTRATIVE CLOSURES	18,244	37.7
TOTALS	48,362	99.9

The minor disparities between the totals you calculated and the actual totals are a result of rounding percentages. For example, to compute the No Cause rate we divided the total number of resolutions (48,362) into the total number of No Cause cases reported (22,815) to arrive at .4717546, or 47.2 percent (i.e., the percentage listed in the memorandum). Thus, 48,362 multiplied by .4717546 equals 22,814.9, or 22,815, as listed in the table above. We computed the rest of the percentages in an identical manner, as follows:

o NEGOTIATED SETTLEMENTS: 3,346 divided by 48,362 = .0691865, or 6.9 percent;

o WITHDRAWALS WITH BENEFITS: 2918 divided by 48,362 = .0603366, or 6.0 percent;

o SUCCESSFUL CONCILIATIONS: 253 divided by 48,362 = .0052313, or .5 percent;

o UNSUCCESSFUL CONCILIATIONS: 786 divided by 48,362 = .0162524, or 1.63 percent;

o ADMINISTRATIVE CLOSURES: 18,244 divided by 48,362 = .3772383, or 37.3 percent.

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[1] The 1090 cause determination figure cited on p(1) of the District Directors Memorandum refers to the Probable Cause Findings data reported in the 396 reports.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

September 28, 1988

MEMORANDUM

TO: All Office Directors

FROM: Deborah J. Graham
Director of Communications and Legislative Affairs

SUBJECT: Time spent responding to Senate Special Committee on Aging

To bring our records up to date, please complete the attached time logs for your office. They are to reflect any time spent responding to Senate aging committee requests from June 17 through COB October 7, 1988.

The hearings before the Senate aging committee were on June 23 and 24. Since that time EEOC has responded to follow-up questions from the hearing, provided information and materials to committee staff and answered their telephone inquires. Please log any time you or your staff have spent responding to any of these inquiries by identifying the activity, time spent and the individual(s) involved.

Additionally, six EEOC staff have received subpoenas from the committee subsequent to the hearing. If you or a member of your staff received one of the subpoenas, please note how much time was spent gathering, and copying the requested materials, as well as the amount of time the individual spent before the committee staff.

Because these were personal subpoenas and much of the subpoenaed materials deal with personnel records and files, the individuals subpoenaed should be responsible for keeping copies of all documents submitted to the committee in their files should a future request come from the aging committee. Any copies that were given to OCLA at the beginning of this recent round of subpoenas will be returned to the individual.

Please return the attached time logs to my office by COB October 7, 1988.

If there are any questions, please call me or Marcia Sayer at 634-6036.

Attachment

Time Spent Responding to Congressional Inquiries

INFORMATION REQUESTED	WRITTEN OR IN PERSON	DATE PROVIDED	TIME SPENT